

2019 Arkansas Laws Act 910 (H.B. 1763)

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ACT 910

H.B. 1763

TRANSFORMATION AND EFFICIENCIES ACT OF 2019

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

Subtitle

TO CREATE THE TRANSFORMATION AND EFFICIENCIES ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS; TO TRANSFER STATE ENTITIES; AND TO DECLARE AN EMERGENCY.

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

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

(a) This act shall be known and may be cited as the “Transformation and Efficiencies Act of 2019”.

(b)(1) If a provision of this act requires a director, commissioner, or other executive head of a state entity to consult with the secretary of a cabinet-level department regarding a duty or function of the state entity, “consultation” means:

(A)(i) When working on behalf of a governing state entity, coordinating with and receiving input, review, and recommendations from the secretary of the cabinet-level department.

(ii) “Consultation” under subdivision (b)(1)(A)(i) of this section does not include approval or consent; and

(B) When working on behalf of a state entity other than a governing state entity, coordinating with and receiving input, review, recommendations, advice, and consent of the secretary of the cabinet-level department.

(2) As used in this subsection, “governing state entity” means a state entity, including without limitation a board, commission, or council, whose membership consists of:

(A) Two (2) or more appointed members;

(B) Two (2) or more ex-officio members; or

(C) Both appointed and ex-officio members.

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

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

CHAPTER 43

CABINET-LEVEL DEPARTMENTS OF THE EXECUTIVE BRANCH

Subchapter 1 — General Provisions

<< AR ST § 25-43-101 >>

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

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

<< AR ST § 25-43-102 >>

25-43-102. Legislative findings and intent — Construction.

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

- (1) Reorganize the structure of state government;
- (2) Improve the delivery of services to the people of this state;
- (3) Provide sufficient flexibility to meet changing conditions;
- (4) Establish a clear and orderly organizational structure of state government;
- (5) Provide a reasonable opportunity to create budgetary and administrative efficiencies within an orderly organizational structure of state government;
- (6) Effect the grouping of state entities primarily according to function into a limited number of cabinet-level departments; and
- (7) Minimize overlapping of authority and duplication of effort.

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

(c) This chapter shall be liberally construed.

<< AR ST § 25-43-103 >>

25-43-103. Definitions.

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

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

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

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

(3) “Cabinet-level department transfer” means a transfer of the administrative functions of a state entity to a cabinet-level department under this chapter;

(4) “Employee” means a person employed to carry out the functions of a state entity; and

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

<< AR ST § 25–43–104 >>

25–43–104. Cabinet-level departments.

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

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

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

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

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

<< AR ST § 25-43-105 >>

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

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

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

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

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

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

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

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

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

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

(1) The promulgation of rules;

(2) The collection of fees;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) In no event constitute:

- (i) An indebtedness of the State of Arkansas;
- (ii) An indebtedness for which the faith and credit of the State of Arkansas or any of its revenue are pledged; or
- (iii) A secured lien on or a security interest in property of the state.

<< AR ST § 25-43-106 >>

25-43-106. Cabinet-level departments — Powers and duties.

(a) A cabinet-level department shall:

- (1) Execute the powers and duties prescribed by law;
- (2) Administer each state entity subject to a cabinet-level department transfer under this chapter;
- (3) Make contracts, grants, and employ, to the extent funds are available, such employees as are necessary to carry out the purposes of the cabinet-level department and each state entity administered by the cabinet-level department; and
- (4) Perform all administrative functions of a state entity subject to a cabinet-level department transfer under this chapter, unless otherwise provided by law.

(b) A cabinet-level department may:

- (1) Assist other state entities and federal departments, agencies, boards, commissions, and institutions, by performing services in conformity with the purposes of the cabinet-level department;
- (2) Maintain and administer real property on behalf of a state entity subject to a cabinet-level department transfer under this chapter, unless otherwise provided by law;
- (3) Maintain and administer all other property on behalf of a state entity subject to a cabinet-level department transfer under this chapter, unless otherwise provided by law;
- (4) Provide administrative support, employment needs, and staff to carry out the orders, rules, regulations, directives, or standards promulgated or issued by each state entity over which the cabinet-level department has administrative control; and
- (5) Share business and administrative services across each cabinet-level department as determined necessary by the secretary of the cabinet-level department.

<< AR ST § 25-43-107 >>

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

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

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

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

- (1) Bonds issued by the Arkansas Development Finance Authority;
- (2) Contracts and obligations securing bonds issued by the Arkansas Development Finance Authority or pertaining to bonds issued by the Arkansas Development Finance Authority; and
- (3) Programs financed by bonds issued by the Arkansas Development Finance Authority.

<< AR ST § 25-43-108 >>

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

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

- (1) Be the executive head of each cabinet-level department;
- (2) Be appointed by the Governor, subject to confirmation by the Senate;
- (3) Serve at the pleasure of the Governor;
- (4) Before entering upon his or her respective duties, take and subscribe to and file in the office of the Secretary of State, the oath under Arkansas Constitution, Article 19, § 20, that he or she will support the United States Constitution and the Arkansas Constitution and faithfully perform the duties upon which he or she is about to enter; and
- (5)(A) Furnish bond to the state, with a corporate surety, in the sum of ten thousand dollars (\$10,000).

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

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

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

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

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

- (1) Delegate his or her functions, powers, and duties to various divisions or employees of the cabinet-level department as he or she shall deem desirable and necessary for the effective and efficient operation of the cabinet-level department;
- (2) Perform or assign duties assigned to the cabinet-level department; and
- (3) Serve as the director, or the administrative or executive head of any state entity under the administrative control of the cabinet-level department if the secretary also meets all statutory requirements for the position.

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

- (1) Secretary of the Department of Agriculture;
- (2) Secretary of the Department of Commerce;

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

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

(f)(1) If a provision of the Transformation and Efficiencies Act of 2019 requires a director, commissioner, or other executive head of a state entity to consult with the secretary of a cabinet-level department regarding a duty or function of the state entity, “consultation” means:

(A)(i) When working on behalf of a governing state entity, coordinating with and receiving input, review, and recommendations from the secretary of the cabinet-level department.

(ii) “Consultation” under subdivision (b)(1)(A)(i) of this section does not include approval or consent; and

(B) When working on behalf of a state entity other than a governing state entity, coordinating with and receiving input, review, recommendations, advice, and consent of the secretary of the cabinet-level department.

(2) As used in this subsection, “governing state entity” means a state entity, including without limitation a board, commission, or council, whose membership consists of:

(A) Two (2) or more appointed members;

(B) Two (2) or more ex-officio members; or

(C) Both appointed and ex-officio members.

<< AR ST § 25–43–109 >>

25–43–109. Correction of technical errors related to transformation of state government.

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

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

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

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

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

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

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

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

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

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

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

(i) The Speaker of the House of Representatives;

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

(iii) The Legislative Council.

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

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

<< AR ST § 25-43-110 >>

25-43-110. Funds and personnel transferred.

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

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

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

(2) At no time may funding or cash fund appropriation be established under subsection (c) of this section that is not authorized to be transferred or in a greater amount than is transferred.

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

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

(A) A pay grade;

(B) A line item;

(C) The number of authorized classifications; or

(D) A job duty.

<< AR ST § 25-43-111 >>

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

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

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

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

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

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

Subchapter 2 — Department of Agriculture

<< AR ST § 25-43-201 >>

25-43-201. Department of Agriculture.

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

<< AR ST § 25-43-202 >>

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

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

- (1) The Abandoned Pesticide Advisory Board, created under § 8-7-1204;**
- (2) The Arkansas Agriculture Board, created under § 25-38-207;**
- (3) The Arkansas Agriculture Department, created under § 25-38-202, and now to be known as the Department of Agriculture;**
- (4) The Arkansas Bureau of Standards, created under Acts 1963, No. 482 and codified under § 4-18-201 (repealed);**
- (5) The Arkansas Boll Weevil Eradication Committee;**
- (6) The Arkansas Farm Mediation Office, created under § 2-7-201;**
- (7) The Arkansas Fire Ant Advisory Board, created under § 2-16-701;**
- (8) The Arkansas Forestry Commission, created under § 15-31-101;**
- (9) The Arkansas Livestock and Poultry Commission, created under § 2-33-101;**
- (10) The Arkansas Milk Stabilization Board, created under § 2-10-103;**
- (11) The Arkansas Natural Resources Commission, created under § 15-20-201;**
- (12) The Arkansas Seed Arbitration Committee, created under § 2-23-104;**
- (13) The Arkansas State Board of Registration for Foresters, created under § 17-31-201;**
- (14) The Arkansas State Board of Registration for Professional Soil Classifiers, created under § 17-47-201;**
- (15) The Arkansas Unpaved Roads Program, created under § 14-305-104;**
- (16) The Commission on Water Well Construction, created under § 17-50-201;**
- (17) The Litter Utilization Committee, created under § 15-20-1110;**
- (18) The Private Wetland and Riparian Zone Creation, Restoration, and Conservation Committee, created under § 26-51-1503;**
- (19) The Ouachita River Commission, created under § 15-23-803;**

- (20) The Red River Compact Commission, created under § 15–23–501;
- (21) The State Plant Board, created under § 2–16–206;
- (22) The Veterinary Medical Examining Board, created under § 17–101–201; and
- (23) The Wetlands Technical Advisory Committee, created under § 15–22–1003.

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

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

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

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

<< AR ST § 25–38–202 >>

25–38–202. Creation — Appointment of secretary.

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

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

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

(3) The secretary may:

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

(i) Statutory duties; and

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

(a) Abandoned Pesticide Advisory Board;

(b) Arkansas Agriculture Board;

(c) Arkansas Boll Weevil Eradication Committee;

- (d) Arkansas Bureau of Standards;
- (e) Arkansas Farm Mediation Office;
- (f) Arkansas Fire Ant Advisory Board;
- (g) Arkansas Forestry Commission;
- (h) Arkansas Livestock and Poultry Commission;
- (i) Arkansas Milk Stabilization Board;
- (j) Arkansas Natural Resources Commission;
- (k) Arkansas Seed Arbitration Committee;
- (l) Arkansas State Board of Registration for Foresters;
- (m) Arkansas State Board of Registration for Professional Soil Classifiers;
- (n) Arkansas Unpaved Roads Program;
- (o) Commission on Water Well Construction;
- (p) Litter Utilization Committee;
- (q) Ouachita River Commission;
- (r) Private Wetland and Riparian Zone Creation, Restoration, and Conservation Committee;
- (s) Red River Compact Commission;
- (t) State Plant Board;
- (u) Veterinary Medical Examining Board;
- (v) Wetlands Technical Advisory Committee; or
- (w) Other state entities under the Department of Agriculture;

(B) Hire department personnel, unless otherwise provided by law; and

(C) Perform or assign duties assigned to the Department of *Agriculture*.

(4)(A) When exercising his or her duties with regards to the State Plant Board, the secretary shall work in consultation with the Director of the State Plant Board and the State Plant Board.

(B) As used in subdivision (b)(4)(A) of this section, “consultation” means coordinating with, giving input, reviewing, and recommending, but shall not require approval or consent.

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

<< AR ST § 25–38–203 >>

25–38–203. Arkansas Agriculture Department Department of Agriculture — Powers and duties.

The Arkansas Agriculture Department **Department of Agriculture** shall:

- (1) Administer the departments, institutions, other agencies, or parts of departments, institutions, or other agencies transferred to the department under §§ ~~25-38-204 and 25-38-205~~ **25-38-211**;
- (2) Coordinate all existing programs and create any new programs that will enhance the marketing of the state's agricultural products to intrastate, national, and international markets;
- (3) Establish a clearinghouse for collecting, correlating, analyzing, and interpreting marketing and educational information and data concerning **the** needs of and resources for agriculture, aquaculture, horticulture, forestry, and kindred industries;
- (4) Develop a website devoted to marketing and education concerning agriculture, aquaculture, horticulture, forestry, and kindred industries, including a distinctive logo publicizing products as "Grown in Arkansas";
- (5) Encourage the organization of neighborhood and county agricultural clubs and associations;
- (6) Coordinate the various activities of the department with those of the federal government and other states on matters pertaining to agriculture, aquaculture, horticulture, forestry, and kindred industries and enter into agreements for that purpose;
- (7) Coordinate with existing programs concerning agriculture, aquaculture, horticulture, forestry, and kindred industries with the University of Arkansas Division of Agriculture **of the University of Arkansas**;
- (8) Make all contracts and grants and employ, to the extent funds are available, such personnel as may be necessary to carry out the purposes of this chapter; ~~and~~
- (9) Assist other departments, agencies, and institutions of the state and federal governments, when so requested, by performing services in conformity with the purposes of this chapter: ;
- (10) Establish a uniform allowance program for certain staff and field employees;**
- (11) Prepare and submit annually to the Governor a report of the department's expenditures and accomplishments, including information from all entities administered by the department; and**
- (12) Designate employees who shall have the powers of peace officers or institutional law enforcement officers in the enforcement of the criminal laws of this state.**

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

<< Repealed: AR ST § 25-38-204 >>

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

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

- ~~(1) Abandoned Pesticide Advisory Board, created under § 8-7-1204;~~
- ~~(2) Arkansas Forestry Commission, created under § 15-31-101;~~

- (3) ~~Arkansas Livestock and Poultry Commission, created under § 2-33-101;~~
- (4) ~~State Plant Board, created under § 2-16-206; and~~
- (5) ~~Aquaculture business enterprise facilities and operations with the Arkansas Development Finance Authority.~~

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

<< AR ST § 25-38-206 >>

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

(a) ~~The human resource and accounting operations~~ **All administrative functions, including without limitation the human resource and accounting operations,** of the following boards, ~~and commissions, bureaus, committees, programs, and offices~~ shall be administered under the direction and supervision of the ~~Arkansas Agriculture Department~~ **Department of Agriculture**:

- (1) The State Plant Board;
- (2) The Arkansas Livestock and Poultry Commission; ~~and~~
- (3) The Arkansas Forestry Commission;
- (4) The Arkansas Natural Resources Commission;**
- (5) The Arkansas State Board of Registration for Foresters;**
- (6) The Veterinary Medical Examining Board;**
- (7) The Abandoned Pesticide Advisory Board;**
- (8) The Commission on Water Well Construction;**
- (9) The Red River Compact Commission;**
- (10) The Arkansas Bureau of Standards;**
- (11) The Arkansas State Board of Registration for Professional Soil Classifiers;**
- (12) The Arkansas Farm Mediation Office;**
- (13) The Arkansas Boll Weevil Eradication Committee;**
- (14) The Arkansas Fire Ant Advisory Board;**
- (15) The Arkansas Milk Stabilization Board;**
- (16) The Arkansas Seed Arbitration Committee;**
- (17) The Arkansas Unpaved Roads Program;**
- (18) The Litter Utilization Committee;**
- (19) The Ouachita River Commission;**

(20) The Arkansas Agriculture Board;

(21) The Private Wetland and Riparian Zone Creation, Restoration, and Conservation Committee; and

(22) The Wetlands Technical Advisory Committee.

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

(c)(1) All employees of the boards, commissions, committees, bureaus, programs, or offices transferred under § 25–38–211 and subsection (a) of this section shall be employees of the Department of Agriculture, unless otherwise provided by law.

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

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

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

(d) “Administrative functions” does not include the promulgation of rules or issuance of orders on behalf of any of the entities transferred under subsection (a) of this section and § 25–38–211.

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

<< AR ST § 25–38–211 >>

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

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

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

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

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

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

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

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

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

- (8) The Arkansas Livestock and Poultry Commission, created under § 2-33-101;
 - (9) The Arkansas Milk Stabilization Board, created under § 2-10-103;
 - (10) The Arkansas Natural Resources Commission, created under § 15-20-201;
 - (11) The Arkansas Seed Arbitration Committee, created under § 2-23-104;
 - (12) The Arkansas State Board of Registration for Foresters, created under § 17-31-201;
 - (13) The Arkansas State Board of Registration for Professional Soil Classifiers, created under § 17-47-201;
 - (14) The Arkansas Unpaved Roads Program, created under § 14-305-104;
 - (15) The Commission on Water Well Construction, created under § 17-50-201;
 - (16) The Litter Utilization Committee, created under § 15-20-1110;
 - (17) The Private Wetland and Riparian Zone Creation, Restoration, and Conservation Committee, created under § 26-51-1503;
 - (18) The Ouachita River Commission, created under § 15-23-803;
 - (19) The Red River Compact Commission, created under § 15-23-501;
 - (20) The State Plant Board, created under § 2-16-206;
 - (21) The Veterinary Medical Examining Board, created under § 17-101-201; and
 - (22) The Wetlands Technical Advisory Committee, created under § 15-22-1003.
- (b) The transfer under subdivision (a) of this section supersedes previous transfers, including without limitation the transfers under § 25-38-204.
- (c) For purposes of this section, the Department of Agriculture shall be considered a principal department as established by Acts 1971, No. 38.
- (d) The transferred entities shall be administered under the direction and supervision of the Department of Agriculture but shall continue to exercise their statutory authority, powers, duties, and functions as before the transfer, including without limitation the promulgation of rules, the collection of fees, and the creation of programs.
- (e) All revenue and future revenue, including without limitation cash funds, special revenue, trust funds, trust fund income, federal grants, aid, reimbursements, nonrevenue receipts, and other moneys held in accounts by the transferred boards, commissions, bureaus, programs, committees, or offices, including without limitation unexpended balances that may be carried forward, shall continue to be held in the accounts and shall be used solely for the purposes for which the revenue was collected as provided by law.
- (f) All records, personnel, and unexpended balances of state appropriations or allocations, including the functions of budgeting and purchasing, are transferred to the Department of Agriculture.

(g)(1) All real property owned in fee simple by a transferred state entity, except as set out in subdivision (g)(2) of this section, shall remain in the name of the state entity subject to a cabinet-level department transfer under § 25–38–211, to be administered by the Department of Agriculture.

(2) All real or personal property owned by the State Plant Board shall remain in the name of the State Plant Board and shall be administered by the State Plant Board.

SECTION 9. Arkansas Code § 2–1–102(c)(1), concerning the definition of “sustainable”, is amended to read as follows:

<< AR ST § 2–1–102 >>

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

SECTION 10. Arkansas Code § 2–7–201 is amended to read as follows:

<< AR ST § 2–7–201 >>

2–7–201. Creation.

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

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

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

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

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

SECTION 11. Arkansas Code § 2–10–103(i) is amended to read as follows:

<< AR ST § 2–10–103 >>

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

SECTION 12. Arkansas Code § 2–10–104(a)(5) is repealed.

<< AR ST § 2–10–104 >>

<< AR ST § 2-10-104 >>

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

SECTION 13. Arkansas Code § 2-10-104(c)(1), concerning the powers and duties of the Arkansas Milk Stabilization Board, is amended to read as follows:

<< AR ST § 2-10-104 >>

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

SECTION 14. Arkansas Code § 2-10-203(b)(1)(A), concerning the creation of the Dairy Stabilization Grant, is amended to read as follows:

<< AR ST § 2-10-203 >>

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

SECTION 15. Arkansas Code § 2-10-204(a), concerning milk production and quality incentives, is amended to read as follows:

<< AR ST § 2-10-204 >>

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

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

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

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

SECTION 16. Arkansas Code § 2-10-205 is amended to read as follows:

<< AR ST § 2-10-205 >>

2-10-205. Rules.

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

SECTION 17. Arkansas Code § 2–15–406 is amended to read as follows:

<< AR ST § 2–15–406 >>

2–15–406. State Plant Board — Reports.

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

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

SECTION 18. Arkansas Code § 2–16–207(c) and (d), concerning powers and duties of the State Plant Board, are amended to read as follows:

<< AR ST § 2–16–207 >>

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

- (A) Inspect places, plants and plant products, and things and substances used or connected herewith;
- (B) Investigate, control, eradicate, and prevent the dissemination of insect pests, diseases, and noxious weeds; and
- (C) Supervise or cause the treatment, cutting, and destruction of infected or infested plants and plant products.

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

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

SECTION 19. Arkansas Code § 2–16–208 is amended to read as follows:

<< AR ST § 2-16-208 >>

2-16-208. Director of board.

(a) **(1)** For the purpose of carrying out the provisions of this subchapter, the State Plant Board shall employ, prescribe the duties of, and fix the compensation for a Director of the State Plant Board.

(2)(A) With the approval of the ~~board~~ **State Plant Board**, the director may employ such inspectors or other employees as may be required and may incur such expenses as may be necessary within the limits of the appropriation made by law.

(B) The State Plant Board shall be subject to all executive orders by the Governor instituting a hiring freeze or restriction applicable to all cabinet-level departments.

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

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

(B) The secretary shall serve as the liaison between the State Plant Board and the Governor.

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

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

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

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

(e) The secretary shall not be appointed to the position of director.

SECTION 20. Arkansas Code § 2-16-209(d), concerning the transportation of insect pests and duties of the State Plant Board, is amended to read as follows:

<< AR ST § 2-16-209 >>

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

SECTION 21. Arkansas Code § 2-16-306(b), concerning the enforcement authority of the State Plant Board, is amended to read as follows:

<< AR ST § 2-16-306 >>

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

SECTION 22. Arkansas Code § 2-16-306(c)(1), concerning the enforcement authority of the State Plant Board, is amended to read as follows:

<< AR ST § 2-16-306 >>

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

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

<< AR ST § 2-16-405 >>

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

SECTION 24. Arkansas Code § 2-16-702(a), concerning members of the Arkansas Fire Ant Advisory Board, is amended to read as follows:

<< AR ST § 2-16-702 >>

(a) The Arkansas Fire Ant Advisory Board shall be composed of the Vice President for Agriculture of the University of Arkansas ~~System~~, the head of the Department of Entomology at the University of Arkansas at Fayetteville or his or her representative, the ~~Director of the State Plant Board~~ **Secretary of the Department of Agriculture** or his or her representative, and the following to be appointed from an ant-infested area by the ~~chair~~ **Chair of the Arkansas Fire Ant Advisory Board**:

- (1) A representative of an Arkansas environmental interest group;
- (2) A county extension agent or a member of the general public;
- (3) A representative of the farm or ranch industry;
- (4) A representative of the horticultural or nursery industry; and
- (5) A representative of the Arkansas Pest Control Association.

SECTION 25. Arkansas Code § 2-32-501(c), concerning administrative penalties imposed by the Arkansas Livestock and Poultry Commission, is amended to read as follows:

<< AR ST § 2-32-501 >>

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

SECTION 26. Arkansas Code § 2-33-104 is amended to read as follows:

<< AR ST § 2-33-104 >>

2-33-104. Deputy director Director.

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

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

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

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

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

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

SECTION 27. Arkansas Code § 2-33-105 is amended to read as follows:

<< AR ST § 2-33-105 >>

2-33-105. State Veterinarian.

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

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

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

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

SECTION 28. Arkansas Code § 2-33-111, concerning livestock and poultry diagnostic services, is amended to add an additional subsection to read as follows:

<< AR ST § 2-33-111 >>

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

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

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

SECTION 29. Arkansas Code § 2–33–115(a), concerning fees assessed by the Arkansas Livestock and Poultry Commission, is amended to read as follows:

<< AR ST § 2–33–115 >>

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

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

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

SECTION 30. Arkansas Code § 2–33–308 is amended to read as follows:

<< AR ST § 2–33–308 >>

2–33–308. Overtime compensation.

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

SECTION 31. Arkansas Code § 2–34–205(b) and (c), concerning custody of county brand records, are amended to read as follows:

<< AR ST § 2–34–205 >>

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

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

SECTION 32. Arkansas Code § 2–34–210(b), concerning the sale of the State Brand Book, is amended to read as follows:

<< AR ST § 2–34–210 >>

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

SECTION 33. The introductory language to Arkansas Code § 4–18–311, concerning the creation of the State Division of Weights and Measures, is amended to read as follows:

<< AR ST § 4–18–311 >>

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

SECTION 34. Arkansas Code § 4–18–312(g), concerning the powers and duties of the State Plant Board, is amended to read as follows:

<< AR ST § 4–18–312 >>

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

SECTION 35. Arkansas Code § 4–18–312(p), concerning the powers and duties of the State Plant Board, is amended to read as follows:

<< AR ST § 4–18–312 >>

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

SECTION 36. Arkansas Code § 4–18–313 is amended to read as follows:

<< AR ST § 4–18–313 >>

4–18–313. Special police powers.

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

(a) Authorized to enter any commercial premises during normal business hours, except that in the event such premises are not open to the public, he/she shall first present his/her credentials and obtain consent before making entry thereto, unless a search warrant has previously been obtained.

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

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

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

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

SECTION 37. Arkansas Code § 4–18–325 is amended to read as follows:

<< AR ST § 4–18–325 >>

4–18–325. Restraining order and injunction.

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

SECTION 38. Arkansas Code § 4–18–329(a), concerning the fees for tests and inspections by the Arkansas Bureau of Standards of the State Plant Board, is amended to read as follows:

<< AR ST § 4–18–329 >>

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

SECTION 39. Arkansas Code § 4–18–334(a), concerning the Director of the Arkansas Bureau of Standards, is amended to read as follows:

<< AR ST § 4–18–334 >>

(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 40. Arkansas Code § 4–18–334(c), concerning the Director of the Arkansas Bureau of Standards, is repealed.

<< AR ST § 4–18–334 >>

~~(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 41. Arkansas Code § 4–18–334(d)(4), concerning the Director of the Arkansas Bureau of Standards, is amended to read as follows:

<< AR ST § 4–18–334 >>

(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 42. Arkansas Code § 4–18–335 is repealed.

<< Repealed: AR ST § 4–18–335 >>

~~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 43. Arkansas Code § 8–7–1204(b), concerning the Abandoned Pesticide Advisory Board, is amended to read as follows:

<< AR ST § 8–7–1204 >>

(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;
- (2) One (1) member shall be a representative from the Arkansas Natural Resources Commission;
- (3) One (1) member shall be a representative from the University of Arkansas Cooperative Extension Service;
- (4) One (1) member shall be a representative from the Arkansas Department **Division** of Environmental Quality;
- (5) One (1) member may be a representative from the United States Natural Resources Conservation Service; and
- (6) One (1) member shall be a representative from the ~~State Plant Board~~ **Department of Agriculture**, who shall serve as the Chair of the Abandoned Pesticide Advisory Board.

SECTION 44. Arkansas Code § 14–305–105(a) and (b), concerning the application process and criteria for selection under the Arkansas Unpaved Roads Program Act, are amended to read as follows:

<< AR ST § 14–305–105 >>

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

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

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

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

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

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

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

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

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

(5) A plan for using best management practices;

(6) A description of the unpaved road project site, including without limitation a site map; and

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

SECTION 45. Arkansas Code § 14-305-105(e), concerning the application process and criteria for selection under the Arkansas Unpaved Roads Program Act, is amended to read as follows:

<< AR ST § 14-305-105 >>

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

SECTION 46. Arkansas Code § 14-305-106(b) and (c), concerning the funding of unpaved road projects under the Arkansas Unpaved Roads Program Act, are amended to read as follows:

<< AR ST § 14-305-106 >>

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

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

SECTION 47. Arkansas Code § 14-305-107(b) and (c), concerning the completion of an unpaved road projects under the Arkansas Unpaved Roads Program Act, are amended to read as follows:

<< AR ST § 14-305-107 >>

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

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

(c) A county shall:

(1) Comply with the standards set by the ~~division~~ **commission** for the completion of an unpaved road project to ensure that the unpaved road project is conducted in a manner that is not harmful to the state or the environment; and

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

SECTION 48. Arkansas Code § 14-305-108(3), concerning the funding of unpaved road projects under the Arkansas Unpaved Roads Program Act, is amended to read as follows:

<< AR ST § 14-305-108 >>

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

SECTION 49. Arkansas Code § 14-305-110 is amended to read as follows:

<< AR ST § 14-305-110 >>

14-305-110. Rules.

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

- (1) The application process;
- (2) The creation and administration of an advisory committee to assist the ~~division~~ **commission** in evaluating applications and making funding determinations;
- (3) The disbursement of grant funds;
- (4) The reporting required by counties that receive grant funds under this chapter;
- (5) The evaluation and assessment of unpaved road projects approved for grants;
- (6) The expenses that are eligible for grant funds; and
- (7) The standards a county is required to meet in completing an unpaved road project.

SECTION 50. Arkansas Code § 15-4-3806 is amended to read as follows:

<< AR ST § 15-4-3806 >>

15-4-3806. Promotion.

(a) The ~~Arkansas Agriculture Department~~ **Department of Agriculture** may use its internet resources to:

- (1) Promote, create, and expand local farm and food economies in this state;
- (2) Maintain a list of local farm or food products and the providers of local farm or food products; and
- (3) Facilitate compliance with this subchapter.

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

(2) The program coordinator shall:

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

- (i) Assisting the provider of local farm or food products in developing a business plan;
- (ii) Working with distribution representatives; and
- (iii) Using available resources, including without limitation agencies and other public and private entities;

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

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

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

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

SECTION 51. Arkansas Code § 15-13-301(a), concerning the Arkansas Alternative Fuels Development Program, is amended to read as follows:

<< AR ST § 15-13-301 >>

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

SECTION 52. Arkansas Code § 15–13–302(c), concerning the production incentives for alternative fuels producers under the Arkansas Alternative Fuels Development Program, is amended to read as follows:

<< AR ST § 15–13–302 >>

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

- (1) An application for a grant under this subsection that shall include at a minimum:
 - (A) The expected gallonage production of alternative fuels at the facility;
 - (B) A narrative description of the intended use of the grant moneys; and
 - (C) Evidence sufficient to satisfy the department that the applicant has the capacity to complete the proposed project;
- (2) Instructions about the grant process;
- (3) Scoring procedures to determine the award of the grants; and
- (4) Other factors that the Secretary of the ~~Arkansas Agriculture Department~~ **Department of Agriculture** deems necessary.

SECTION 53. Arkansas Code § 15–13–303(b), concerning the production incentives for feedstock processors under the Arkansas Alternative Fuels Development Program, is amended to read as follows:

<< AR ST § 15–13–303 >>

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

- (1) An application for a grant under this subchapter that shall include at a minimum:
 - (A) A narrative description of the intended use of the grant moneys; and
 - (B) Evidence sufficient to satisfy the department that the applicant has the capacity to complete the proposed project;
- (2) Instructions about the grant process;
- (3) Scoring procedures to determine the award of the grants; and
- (4) Other factors that the Secretary of the ~~Arkansas Agriculture Department~~ **Department of Agriculture** deems necessary.

SECTION 54. Arkansas Code § 15–13–304(b), concerning the distribution incentives for alternative fuels distributors under the Arkansas Alternative Fuels Development Program, is amended to read as follows:

<< AR ST § 15–13–304 >>

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

- (1) An application for a grant under this subchapter that shall include at a minimum:
 - (A) A narrative description of the intended use of the grant moneys; and
 - (B) Evidence sufficient to satisfy the department that the provision of a grant to the alternative fuels distributor will improve the statewide supply and distribution of alternative fuels and alternative fuels mixtures that are produced in Arkansas;
- (2) Instructions about the grant process;
- (3) Scoring procedures to determine the award of the grants; and
- (4) Other factors that the Secretary of the ~~Arkansas Agriculture Department~~ **Department of Agriculture** deems necessary.

SECTION 55. Arkansas Code § 15–13–305 is amended to read as follows:

<< AR ST § 15–13–305 >>

15–13–305. Rules.

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

SECTION 56. Arkansas Code § 15–13–306(c), concerning rebate incentives for modification of motor vehicles under the Arkansas Alternative Fuels Development Program, is amended to read as follows:

<< AR ST § 15–13–306 >>

(c) The ~~Arkansas Agriculture Department~~ **Department of Agriculture** shall create a rebate application process for a public entity, a company, an organization, or an affiliate of a public entity, a company, or an organization to obtain a rebate that shall include:

- (1) An application for a rebate under this subchapter that shall include:
 - (A) An affidavit or proof that the motor vehicle is registered in Arkansas or will be registered in Arkansas upon acquisition of the motor vehicle; and
 - (B) Evidence of the following:
 - (i) The purchase of a dedicated compressed natural gas motor vehicle or a dedicated propane gas motor vehicle and the differential costs; or
 - (ii) The differential costs, incremental costs, or the costs associated with the conversion of a diesel-powered motor vehicle or gasoline-powered motor vehicle into a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle;
- (2) Instructions about the rebate process;

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

SECTION 57. Arkansas Code § 15–20–204 is amended to read as follows:

<< AR ST § 15–20–204 >>

15–20–204. Organization.

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

SECTION 58. Arkansas Code § 15–20–205 is amended to read as follows:

<< AR ST § 15–20–205 >>

15–20–205. Executive director ~~Director~~.

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

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

(b) ~~The executive director~~ **Department of Agriculture** shall be charged with the duty of administering the provisions of this subchapter and the rules, regulations, and orders established thereunder **by the Arkansas Natural Resources Commission**.

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

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

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

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

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

SECTION 59. Arkansas Code § 15–20–207(1)(B), concerning the powers and duties of the Arkansas Natural Resources Commission, is amended to read as follows:

<< AR ST § 15–20–207 >>

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

SECTION 60. Arkansas Code § 15–20–207(6), concerning the powers and duties of the Arkansas Natural Resources Commission, is amended to read as follows:

<< AR ST § 15–20–207 >>

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

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

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

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

SECTION 61. Arkansas Code § 15–20–903(3), concerning the definition of “executive director” under the Arkansas Poultry Feeding Operations Registration Act, is repealed.

<< AR ST § 15–20–903 >>

(3) ~~“Executive director” means the Executive Director of the Arkansas Natural Resources Commission;~~

SECTION 62. Arkansas Code § 15–20–904(a), concerning registration under the Arkansas Poultry Feeding Operations Registration Act, is amended to read as follows:

<< AR ST § 15–20–904 >>

(a) The Arkansas Natural Resources Commission shall operate an annual registration program, **to be administered by the Department of Agriculture**, for the purpose of assembling and maintaining information on the number, composition, and practices of poultry feeding operations in the state.

SECTION 63. Arkansas Code § 15–20–904(g), concerning registration under the Arkansas Poultry Feeding Operations Registration Act, is amended to read as follows:

<< AR ST § 15–20–904 >>

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

SECTION 64. Arkansas Code § 15–20–905(a), concerning the authority of the Arkansas Natural Resources Commission for enforcement, is amended to read as follows:

<< AR ST § 15–20–905 >>

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

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

(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 upon request.

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

SECTION 65. Arkansas Code § 15–20–1003(3), concerning the definition of “executive director” under the Arkansas Soil Nutrient Management Planner and Applicator Certification Act, is repealed.

<< AR ST § 15–20–1003 >>

(3) “Executive director” means the ~~Executive Director of the Arkansas Natural Resources Commission~~;

SECTION 66. Arkansas Code § 15–20–1004(c)(4), concerning the nutrient planner program, is amended to read as follows:

<< AR ST § 15–20–1004 >>

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

SECTION 67. Arkansas Code § 15–20–1005(c)(4), concerning the nutrient applicator program, is amended to read as follows:

<< AR ST § 15-20-1005 >>

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

SECTION 68. Arkansas Code § 15-20-1008(b), concerning administrative penalties under the Arkansas Soil Nutrient Management Planner and Applicator Certification Act, is amended to read as follows:

<< AR ST § 15-20-1008 >>

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

SECTION 69. Arkansas Code § 15-20-1103(5), concerning the definition of “executive director” under the Arkansas Soil Nutrient Application and Poultry Litter Utilization Act, is repealed.

<< AR ST § 15-20-1103 >>

(5) “Executive director” means the ~~Executive Director of the Arkansas Natural Resources Commission~~;

SECTION 70. Arkansas Code § 15-20-1107(a)(2), concerning the nutrient management plan, is amended to read as follows:

<< AR ST § 15-20-1107 >>

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

SECTION 71. Arkansas Code § 15-20-1108(a)(2), concerning the poultry litter management plan, is amended to read as follows:

<< AR ST § 15-20-1108 >>

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

<< AR ST § 15-20-1110 >>

(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 73. 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:

<< AR ST § 15–20–1111 >>

(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 74. 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:

<< AR ST § 15–20–1112 >>

(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 upon request.

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

SECTION 75. Arkansas Code § 15–20–1314, concerning the powers and duties of the Arkansas Natural Resources Commission, is amended to add an additional subsection to read as follows:

<< AR ST § 15–20–1314 >>

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

SECTION 76. Arkansas Code § 15–22–207 is amended to read as follows:

<< AR ST § 15–22–207 >>

15–22–207. Administration of oath to witnesses.

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

SECTION 77. Arkansas Code § 15–22–1003(4), concerning the definition of “executive director” under the Arkansas Wetlands Mitigation Bank Act, is repealed.

<< AR ST § 15-22-1003 >>

(4) ~~“Executive director” means the Executive Director of the Arkansas Natural Resources Commission;~~

SECTION 78. Arkansas Code § 15-22-1003(7), concerning the definition of “Wetlands Technical Advisory Committee” under the Arkansas Wetlands Mitigation Bank Act, is amended to read as follows:

<< AR ST § 15-22-1003 >>

(7) “Wetlands Technical Advisory Committee” is **means** a committee made up of the directors or their designees of:

- (A) ~~The Arkansas Forestry Commission;~~
- (~~B~~) The Arkansas State Game and Fish Commission;
- (~~C~~) **(B)** The Arkansas Department of Transportation;
- (~~D~~) **(C)** The ~~Department~~ **Division** of Arkansas Heritage;
- (~~E~~) **(D)** The Arkansas ~~Department~~ **Division** of Environmental Quality; and
- (~~F~~) **(E)** Two (2) public members with expertise in aquatic resources ecology appointed by the Arkansas Natural Resources Commission.

SECTION 79. Arkansas Code § 15-22-1004 is amended to read as follows:

<< AR ST § 15-22-1004 >>

15-22-1004. Mitigation banks — Acquisition and protection — Powers of the executive director .

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

- (1) Set a sales price for credits in the mitigation bank on behalf of the commission;
- (2) Acquire or accept title, including easements, from willing sellers or donors to approved lands, in the name of the commission, suitable for use in mitigation banks;
- (3) Pay costs incurred for alterations needed to create or restore aquatic resources areas for purposes of carrying out the provisions of this subchapter;
- (4) Authorize payment of administrative, research, or scientific monitoring expenses of the commission in carrying out the provisions of this subchapter;
- (5) Receive funds from whatever source for the voluntary acquisition of a mitigation bank and interests therein;
- (6) Enter into contracts with state and federal agencies, nonprofit corporations, or other persons for the management of mitigation bank properties; and
- (7)(A) Upon satisfactory establishment of a functioning aquatic resources site, convey mitigation bank properties to other appropriate state agencies for management.

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

SECTION 80. Arkansas Code § 15–22–1005(a), concerning program criteria for mitigation banks, is amended to read as follows:

<< AR ST § 15–22–1005 >>

(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 81. Arkansas Code § 15–22–1007 is amended to read as follows:

<< AR ST § 15–22–1007 >>

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 82. Arkansas Code § 15–22–1009 is amended to read as follows:

<< AR ST § 15–22–1009 >>

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 83. Arkansas Code § 15–22–1012 is amended to read as follows:

<< AR ST § 15–22–1012 >>

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

- (3) For payment of administrative, research, or scientific monitoring expenses of the Arkansas Natural Resources Commission in carrying out the provisions of this subchapter;
- (4) To repay financial assistance received from state financial assistance programs, including interest and applicable fees, used for the purposes of carrying out the intent of this subchapter; and
- (5) Any other purpose related to wetland, stream, deep water aquatic habitat, or aquatic resources creation or restoration.

SECTION 84. Arkansas Code § 15–22–1304(a), concerning gubernatorial approval required by the Internal Revenue Code, is amended to read as follows:

<< AR ST § 15–22–1304 >>

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

SECTION 85. Arkansas Code § 15–22–1307(a), concerning the execution of bonds by the Arkansas Natural Resources Commission, is amended to read as follows:

<< AR ST § 15–22–1307 >>

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

SECTION 86. Arkansas Code § 15–23–503(1), concerning the commissioners of the Red River Compact Commission, is amended to read as follows:

<< AR ST § 15–23–503 >>

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

SECTION 87. Arkansas Code § 15–23–804(f), concerning the members of the Ouachita River Commission, is amended to read as follows:

<< AR ST § 15–23–804 >>

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

SECTION 88. Arkansas Code § 15-31-104 is amended to read as follows:

<< AR ST § 15-31-104 >>

15-31-104. State Forester.

The State Forester shall:

(1) **(a) The State Forester shall be appointed** by the Arkansas Forestry Commission, with the approval of the Governor, and shall serve at the pleasure of the Governor; .

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

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

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

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

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

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

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

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

(3) The commission may delegate to the Department of Agriculture any of the powers or duties vested in or imposed upon the commission by law, and these delegated powers or duties may be exercised by the secretary or his or her designee.

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

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

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

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

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

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

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

SECTION 89. Arkansas Code § 15-31-105 is repealed.

<< Repealed: AR ST § 15-31-105 >>

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

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

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

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

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

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

SECTION 90. Arkansas Code § 15-31-106(a)(1), concerning the functions, powers, and duties of the Arkansas Forestry Commission, is repealed.

<< AR ST § 15-31-106 >>

<< AR ST § 15-31-106 >>

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

SECTION 91. Arkansas Code § 15-31-106(a)(2), concerning the functions, powers, and duties of the Arkansas Forestry Commission, is amended to read as follows:

<< AR ST § 15-31-106 >>

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

SECTION 92. Arkansas Code § 15-31-106(a)(3), concerning the functions, powers, and duties of the Arkansas Forestry Commission, is repealed.

<< AR ST § 15-31-106 >>

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

SECTION 93. Arkansas Code § 15-31-107 is repealed.

<< Repealed: AR ST § 15-31-107 >>

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

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

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

SECTION 94. Arkansas Code § 15-31-110 is repealed.

<< Repealed: AR ST § 15-31-110 >>

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

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

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

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

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

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

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

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

SECTION 95. Arkansas Code § 15-31-112 is repealed.

<< Repealed: AR ST § 15-31-112 >>

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

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

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

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

SECTION 96. Arkansas Code § 15–31–116(b)(2), concerning donation of fire control or fire rescue equipment, is amended to read as follows:

<< AR ST § 15–31–116 >>

(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 97. 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:

<< AR ST § 17–31–201 >>

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

SECTION 98. Arkansas Code § 17–31–204(c), concerning the powers of the Arkansas State Board of Registration for Foresters, is amended to read as follows:

<< AR ST § 17–31–204 >>

(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 issued by circuit courts.

SECTION 99. Arkansas Code § 17–31–205 is repealed.

<< Repealed: AR ST § 17–31–205 >>

~~17–31–205. Staff and employees.~~

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

SECTION 100. Arkansas Code § 17-31-207(e), concerning the records and reports of the Arkansas State Board of Registration for Foresters, is repealed.

<< AR ST § 17-31-207 >>

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

SECTION 101. Arkansas Code § 17-47-202(4), concerning the powers of the Arkansas State Board of Registration for Professional Soil Classifiers, is repealed.

<< AR ST § 17-47-202 >>

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

SECTION 102. Arkansas Code § 17-47-202(6), concerning the powers of the Arkansas State Board of Registration for Professional Soil Classifiers, is amended to read as follows:

<< AR ST § 17-47-202 >>

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

SECTION 103. Arkansas Code § 17-47-203(2), concerning the records, reports, and disposition of funds of the Arkansas State Board of Registration for Professional Soil Classifiers, is amended to read as follows:

<< AR ST § 17-47-203 >>

(2) Annually submit to the ~~Governor~~ **Secretary of the Department of Agriculture** a report of its transactions of the preceding year and transmit to him or her a complete statement of the receipts and expenditures of the board attested by affidavits of its chair and its secretary; and

SECTION 104. Arkansas Code § 17-47-308(b)(1), concerning the expiration and renewal of certificates of registration issued by the Arkansas State Board of Registration for Professional Soil Classifiers, is amended to read as follows:

<< AR ST § 17-47-308 >>

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

SECTION 105. Arkansas Code § 17-47-312(b), concerning the disciplinary action procedures of the Arkansas State Board of Registration for Professional Soil Classifiers, is amended to read as follows:

<< AR ST § 17-47-312 >>

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

SECTION 106. Arkansas Code § 17-50-201(b)(1) and (2), concerning the creation of the Commission on Water Well Construction, are amended to read as follows:

<< AR ST § 17-50-201 >>

- (1) The ~~Executive Director~~ **Secretary** of the Department of Health or his or her designated representative;
- (2) The ~~Director of the Arkansas Natural Resources Commission~~ **Secretary of the Department of Agriculture** or his or her designated representative;

SECTION 107. Arkansas Code § 17-50-202 is amended to read as follows:

<< AR ST § 17-50-202 >>

17-50-202. Employees.

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

- (1) ~~Employ~~ **Allocate funds to the Department of Agriculture to employ** an executive secretary who, ~~with the approval of the agency housing the commission's office, may~~ **shall** be an employee of the agency ~~department~~; and
- (2) ~~Hire such other employees and contract~~ **Contract** for such legal and engineering services as may be necessary to perform its powers and duties under the provisions of this chapter and fix their salaries within such limitations as may be provided by law; **and**
- (3) **Allocate funds to the Department of Agriculture to provide legal and engineering services necessary to perform the powers and duties of the commission under the provisions of this chapter.**

SECTION 108. Arkansas Code § 17-50-203 is amended to read as follows:

<< AR ST § 17-50-203 >>

17-50-203. Office.

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

SECTION 109. Arkansas Code § 17-50-204(a)(6)-(9), concerning the powers and duties of the Commission on Water Well Construction, are amended to read as follows:

<< AR ST § 17-50-204 >>

(6) Authorize the Department of Agriculture to:**(A)** Hold examinations of applicants for certificates of registration at least one (1) time a year;~~(7)~~ **(B)** Grade all tests and examinations for certificates of registration; **and**~~(8)~~ **(C)** Issue licenses, permits, or certificates for the type or class of well construction or repair or pump installation; and~~(9)~~ **(7)** Perform such other duties as are consistent with the purposes of this chapter.

SECTION 110. Arkansas Code § 17-50-205(a) and (b), concerning inspections of water wells or abandoned water wells, are amended to read as follows:

<< AR ST § 17-50-205 >>

(a) ~~The Commission on Water Well Construction~~ **Department of Agriculture** is authorized to inspect any water well or abandoned water well. ~~Authorized representatives of the commission~~ **Department employees** may at reasonable times enter upon, and shall be given access to, any premises for the purpose of inspection.(b) Upon the basis of such inspections, if the ~~commission~~ **Commission on Water Well Construction** finds that applicable laws, rules, or regulations have not been complied with or that a health hazard exists, the commission shall disapprove the well. If disapproved, no well shall thereafter be used until brought into compliance and any health hazard is eliminated.

SECTION 111. Arkansas Code § 17-50-209 is amended to read as follows:

<< AR ST § 17-50-209 >>

17-50-209. Investigations.When engaged in any investigation, any employee of the ~~Commission on Water Well Construction~~ **Department of Agriculture** shall have the power to administer oaths and to take depositions of persons relevant to any investigations for violations of this chapter.

SECTION 112. Arkansas Code § 17-101-202 is repealed.

<< Repealed: AR ST § 17-101-202 >>

~~17-101-202. Secretary-treasurer.~~~~(a) The Secretary-treasurer of the Veterinary Medical Examining Board shall be the custodian of all fees paid by the Veterinary Medical Examining Board under the provisions of this chapter and shall deposit all fees received with the Treasurer of State for the exclusive use of the board.~~~~(b) The secretary-treasurer shall be paid a salary in such sums as may be determined by the board.~~

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

SECTION 113. Arkansas Code § 17-101-203(5), concerning the powers and duties of the Veterinary Medical Examining Board, is repealed.

<< AR ST § 17-101-203 >>

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

SECTION 114. Arkansas Code Title 17, Chapter 101, Subchapter 2, is amended to add an additional section to read as follows:

<< AR ST § 17-101-204 >>

17-101-204. Director.

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

SECTION 115. Arkansas Code § 19-5-1255(c), concerning the Arkansas Unpaved Roads Program Fund, is amended to read as follows:

<< AR ST § 19-5-1255 >>

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

SECTION 116. Arkansas Code § 19-6-480 is amended to read as follows:

<< AR ST § 19-6-480 >>

19-6-480. Livestock and Poultry Special Revenue Fund.

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

SECTION 117. Arkansas Code § 19-6-809(c), concerning the Arkansas Alternative Fuels Development Fund, is amended to read as follows:

<< AR ST § 19-6-809 >>

(c) The fund shall be used by the Arkansas ¹ ~~Agriculture Department~~ **Department of Agriculture** to provide grants to support alternative fuels producers, feedstock processors, and alternative fuels distributors in Arkansas as provided under the Arkansas Alternative Fuels Development Act, § 15-13-101 et seq., or as otherwise provided by law.

SECTION 118. Arkansas Code § 20–20–205 is amended to read as follows:

<< AR ST § 20–20–205 >>

20–20–205. Administration of subchapter by State Plant Board.

- (a) This subchapter shall be administered by the State Plant Board.
- (b) The functions vested in the board by this subchapter shall be considered to be delegated to the employees of the board **Department of Agriculture** or its authorized representatives.

SECTION 119. Arkansas Code § 22–5–510 is amended to read as follows:

<< AR ST § 22–5–510 >>

22–5–510. Records and reports.

The Arkansas Forestry Commission shall cause a record of all its proceedings relating to state forests, including the date of acquisition, description, source of title, purchase price, amounts expended in the development of each tract, and the forest to which allotted, to be kept in the office of the commission; **Department of Agriculture** and shall make a biannual written report thereof to the Governor .

SECTION 120. Arkansas Code § 22–5–804(a)(1), concerning the Natural Resources Committee of the Arkansas State Game and Fish Commission, is amended to read as follows:

<< AR ST § 22–5–804 >>

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

- (A) ~~The Director~~ **Secretary** of the Department of Finance and Administration;
- (B) The Director of Production and Conservation of the Oil and Gas Commission;
- (C) The State Geologist;
- (D) ~~The State Forester~~ **Secretary of the Department of Agriculture**;
- (E) ~~The Executive Director of the Arkansas Natural Resources Commission~~;
- (F) The Commissioner of State Lands;
- (G) ~~(F)~~ **(F)** The Executive Secretary of the Arkansas State Game and Fish Commission;
- (H) ~~(G)~~ **(G)** The Director **Secretary** of the Department of Parks, **Heritage**, and Tourism;
- (I) ~~(H)~~ **(H)** The Director of the Arkansas Department **Division** of Environmental Quality; and
- (J) ~~(I)~~ **(I)** The Chair of the Arkansas Natural Heritage Commission.

SECTION 121. Arkansas Code § 24–4–804(c)(2), concerning cessation of participation in the Arkansas Public Employees' Retirement System Deferred Retirement Option Plan, is amended to read as follows:

<< AR ST § 24–4–804 >>

(2)(A)(i) This section does not apply to a member who was an employee of the Arkansas Forestry Commission, the Arkansas Livestock and Poultry Commission, or the State Plant Board, and who is a participant in the Arkansas Public Employees' Retirement System Deferred Retirement Option Plan who may be eligible for reemployment after satisfying the separation requirements of § 24–4–520(b) as an essential seasonal staff member with the Arkansas Forestry Commission, the Arkansas Livestock and Poultry Commission, or the State Plant Board.

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

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

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

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

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

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

SECTION 122. Arkansas Code § 25–38–207(b), concerning the organization and duties of the Arkansas Agriculture Board, is amended to read as follows:

<< AR ST § 25–38–207 >>

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

SECTION 123. Arkansas Code § 25–38–208 is amended to read as follows:

<< AR ST § 25–38–208 >>

25–38–208. Agencies not affected.

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

- (1) Arkansas Beef Council;
- (2) Arkansas Catfish Promotion Board;
- (3) Arkansas Corn and Grain Sorghum Promotion Board;
- (4) Arkansas Rice Research and Promotion Board;
- (5) Arkansas Soybean Promotion Board; or
- (6) Arkansas Wheat Promotion Board.

SECTION 124. Arkansas Code § 25–38–210 is amended to read as follows:

<< AR ST § 25–38–210 >>

25–38–210. Agricultural exchanges.

The Arkansas Agriculture Department **Department of Agriculture** shall:

- (1) Evaluate the potential economic benefits to Arkansas and Arkansas farmers of entering into agricultural exchanges with Israel and other countries that will foster the development of trade, mutual assistance, and business relations between Arkansas and the other country; and
- (2) Annually report the department's findings under subdivision (1) of this section to the House Committee on Agriculture, Forestry, and Economic Development and the Senate Committee on Agriculture, Forestry, and Economic Development.

SECTION 125. Arkansas Code § 27–21–105 is amended to read as follows:

<< AR ST § 27–21–105 >>

27–21–105. Enforcement.

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

SECTION 126. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 3 — Department of Commerce

<< AR ST § 25–43–301 >>

25–43–301. Department of Commerce.

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

<< AR ST § 25–43–302 >>

25–43–302. State entities transferred to Department of Commerce.

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

- (1) The Adult Education Section of the Department of Career Education, and now to be known as the Adult Education Section, created under § 25–43–305;
- (2) The Arkansas Deaf and Hearing Impaired Telecommunications Service Corporation, created under § 25–29–101;
- (3) The Arkansas Department of Aeronautics, created under § 27–115–101, and now to be known as the Division of Aeronautics;
- (4) The Arkansas Development Finance Authority, created under § 15–5–201;
- (5) The Arkansas Economic Development Commission, created under § 25–11–101;
- (6) The Arkansas Economic Development Council, created under § 15–4–201 and § 25–11–102;
- (7) The Arkansas Housing Trust Fund Advisory Committee, created under § 15–5–1706;
- (8) Arkansas Rehabilitation Services, created under § 6–52–101;
- (9) The Arkansas Rural Development Commission, created under § 15–6–104;
- (10) The Arkansas Waterways Commission, created under § 15–23–201;
- (11) The Arkansas Wine Producers Council, created under § 3–5–701;
- (12) The Arkansas Workforce Development Board, created under § 15–4–3704;
- (13) The Board of Review, created under § 11–10–523;
- (14) The Board of the Division of State Services for the Blind, created under § 25–10–205;
- (15) The Career Education and Workforce Development Board, created under § 25–30–101;
- (16) The Department of Workforce Services, created under § 11–10–301, and now to be known as the Division of Workforce Services;
- (17) The Division of Minority and Women–Owned Business Enterprise of the Arkansas Economic Development Commission, created under § 15–4–304;
- (18) The Division of Science and Technology of the Arkansas Economic Development Commission, created under § 15–3–103;
- (19) The Division of State Services for the Blind, created under § 25–10–201;
- (20) The Governor's Commission on People with Disabilities, created under § 20–14–202;
- (21) The Office of Skills Development, created under § 25–30–109;
- (22) The State Bank Department, created under § 23–46–201;
- (23) The State Banking Board, created under § 23–46–301;
- (24) The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, created under § 23–61–1102;
- (25) The State Insurance Department, created under § 23–61–101; and

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

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

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

<< AR ST § 25–43–303 >>

25–43–303. Secretary of the Department of Commerce.

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

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

(c) Each division of the department shall be under the direction, control, and supervision of the *secretary, unless otherwise provided by law.*

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

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

(1) Hire department personnel;

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

(3) *Be appointed* as the director or the administrative or executive head of any state entity under the administrative control of the department *if the secretary also meets all statutory requirements for the position.*

(f)(1) *If the secretary meets all statutory requirements for the respective position, the secretary may serve as the interim or acting:*

(A) *Insurance Commissioner;*

(B) *Bank Commissioner; or*

(C) *Securities Commissioner.*

(2) *The secretary cannot be permanently appointed to any of the positions listed in subdivision (f)(1) of this section.*

(g)(1) *The secretary shall delegate the authority to hire employees and to make employment contracts for work performed to the following officers for their respective departments:*

(A) *The Insurance Commissioner;*

(B) The Bank Commissioner; and

(C) The Securities Commissioner.

(2) The State Insurance Department, State Bank Department, and State Securities Department shall be subject to all executive orders by the Governor instituting a hiring freeze or restriction applicable to all cabinet-level departments.

(3) When exercising his or her duties, the secretary shall work in consultation with the following officers with regard to their respective departments:

(A) The Insurance Commissioner;

(B) The Bank Commissioner; and

(C) The Securities Commissioner.

(4) As used in subdivision (g)(2) of this section, "consultation" means coordinating with, giving input, reviewing, and recommending, but shall not require approval or consent.

<< AR ST § 25-43-304 >>

25-43-304. Compliance with federal law.

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

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

(1) Conduct examinations of financial institutions;

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

(3) Handle confidential financial institution information.

<< AR ST § 25-43-305 >>

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

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

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

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

SECTION 127. Arkansas Code § 3-5-703(d), concerning the powers and duties of the Arkansas Wine Producers Council, is amended to read as follows:

<< AR ST § 3-5-703 >>

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

SECTION 128. Arkansas Code § 4-30-207(a), concerning banks declared to be investment companies, is amended to read as follows:

<< AR ST § 4-30-207 >>

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

SECTION 129. Arkansas Code § 4-113-104(a)(2), concerning the creation of the Arkansas Broadband Council, is amended to read as follows:

<< AR ST § 4-113-104 >>

(2) Receive input from all Arkansas broadband stakeholders and advise the Governor **Secretary of the Department of Commerce** and the General Assembly on policies related to broadband in Arkansas;

SECTION 130. Arkansas Code § 4-113-104(b)(5), concerning the creation of the Arkansas Broadband Council, is amended to read as follows:

<< AR ST § 4-113-104 >>

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

SECTION 131. Arkansas Code § 5-4-303(e)(1)(B)(ii)(c), concerning the conditions of suspension or probation for a defendant, is amended to read as follows:

<< AR ST § 5-4-303 >>

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

SECTION 132. Arkansas Code § 5-4-323(a)(1), concerning a high school diploma or high school equivalency diploma and employment training, is amended to read as follows:

<< AR ST § 5-4-323 >>

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

SECTION 133. Arkansas Code § 5-4-323(a)(5)(B), concerning a high school diploma or high school equivalency diploma and employment training, is amended to read as follows:

<< AR ST § 5-4-323 >>

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

SECTION 134. Arkansas Code § 5-4-908(b)(2)-(4), concerning the operation of the pre-adjudication probation program, are amended to read as follows:

<< AR ST § 5-4-908 >>

(2) The Department of Education **Division of Elementary and Secondary Education**;

(3) The Department of Career Education **Adult Education Section**;

(4) The Department **Division** of Community Correction;

SECTION 135. Arkansas Code § 6-5-1102(g), concerning the establishment, membership, and meetings of the Council on Postsecondary Education and Career Readiness, is amended to read as follows:

<< AR ST § 6-5-1102 >>

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

SECTION 136. Arkansas Code § 6-11-202 is amended to read as follows:

<< AR ST § 6-11-202 >>

6-11-202. Records of proceedings.

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

SECTION 137. Arkansas Code § 6-11-204(a), concerning copies of documents as evidence authenticated by the official seal of the Career Education and Workforce Development Board, is amended to read as follows:

<< AR ST § 6-11-204 >>

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

SECTION 138. Arkansas Code § 6-16-118(b), concerning high school equivalency testing for adults and fees, is amended to read as follows:

<< AR ST § 6-16-118 >>

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

SECTION 139. Arkansas Code § 6-18-201(a)(1)(B)(ii), concerning compulsory school attendance and exceptions, is amended to read as follows:

<< AR ST § 6-18-201 >>

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

SECTION 140. Arkansas Code § 6-18-201(b)(2)(A), concerning compulsory school attendance and exceptions, is amended to read as follows:

<< AR ST § 6-18-201 >>

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

<< AR ST § 6-18-201 >>

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

<< AR ST § 6-18-201 >>

(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 143. 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:

<< AR ST § 6-50-702 >>

(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 144. Arkansas Code § 6-52-101(a), concerning the Arkansas Rehabilitation Services, is amended to read as follows:

<< AR ST § 6-52-101 >>

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

SECTION 145. Arkansas Code § 6-52-102 is amended to read as follows:

<< AR ST § 6-52-102 >>

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

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

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

SECTION 146. The introductory language of Arkansas Code § 6-52-103, concerning the power and duties of the State Board of Career Education, is amended to read as follows:

<< AR ST § 6-52-103 >>

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

SECTION 147. Arkansas Code § 6-52-203 is amended to read as follows:

<< AR ST § 6-52-203 >>

6-52-203. Rules.

The Department of Career Education **Office of Skills Development** and the State Apprenticeship Coordination Steering Committee shall promulgate rules necessary to implement the provisions of this subchapter.

SECTION 148. Arkansas Code § 6-52-204(b)(1) and (2), concerning the State Apprenticeship Coordination Steering Committee, are amended to read as follows:

<< AR ST § 6-52-204 >>

- (1) One (1) person designated by and representing the Department of Career Education **Office of Skills Development**;
- (2) One (1) person designated by and representing the Department **Division** of Labor;

SECTION 149. Arkansas Code § 6-52-204(c)(1), concerning the State Apprenticeship Coordination Steering Committee, is amended to read as follows:

<< AR ST § 6-52-204 >>

(c)(1) The member representing the general public shall be appointed by the Department of Career Education **Office of Skills Development** for a term of four (4) years.

SECTION 150. Arkansas Code § 6-52-205(b)(1), concerning the duties of the State Apprenticeship Coordination Steering Committee, is amended to read as follows:

<< AR ST § 6-52-205 >>

(b)(1) The Department of Career Education **Office of Skills Development** shall furnish the coordination committee with the current data necessary to develop the plan.

SECTION 151. Arkansas Code § 6-52-206(a), concerning recommendations of the State Apprenticeship Coordination Steering Committee, is amended to read as follows:

<< AR ST § 6-52-206 >>

(a) Recommendations of the State Apprenticeship Coordination Steering Committee submitted to the Department of Career Education **Office of Skills Development** must be acted on and either accepted or rejected.

SECTION 152. Arkansas Code § 6-52-207(a), concerning apprenticeship training programs, is amended to read as follows:

<< AR ST § 6-52-207 >>

(a) Pursuant to the provisions of this subchapter, the Director of the ~~Department of Career Education~~ **Office of Skills Development** shall allocate state funds for the support of apprenticeship training programs that meet the criteria set forth in this subchapter.

SECTION 153. Arkansas Code § 6-52-207(h), concerning apprenticeship training programs, is amended to read as follows:

<< AR ST § 6-52-207 >>

(h) A program must be registered with the **United States** Office of Apprenticeship and the ~~Department of Career Education~~ **Office of Skills Development**.

SECTION 154. Arkansas Code § 6-53-203(b), concerning the duties and powers of Arkansas Higher Education Coordinating Board, is amended to read as follows:

<< AR ST § 6-53-203 >>

(b) The board shall develop and maintain short-range and long-range plans for providing current and appropriate occupational and technical training for adults and may solicit information for its planning activities from the State Board of Education, the ~~Department~~ **Division** of Workforce Services, any industry training program of the state, any apprenticeship training program of the state, and other state agencies, institutions, and departments.

SECTION 155. Arkansas Code § 6-55-104(b), concerning the creation, purpose, and administration of the Arkansas Construction Industry Craft Training Program, is amended to read as follows:

<< AR ST § 6-55-104 >>

(b) The program will be administered by the ~~Department of Career Education~~ **Office of Skills Development** in collaboration with the State Apprenticeship Coordination Steering Committee created by § 6-52-204.

SECTION 156. Arkansas Code § 6-55-107(c), concerning apprenticeship program requirements and the Arkansas Construction Industry Craft Training Trust Fund, is amended to read as follows:

<< AR ST § 6-55-107 >>

(c) Upon the recommendation of the State Apprenticeship Coordination Steering Committee, the ~~Department of Career Education~~ **Office of Skills Development** shall expend the moneys in the trust fund from time to time to support the training program prescribed in this chapter.

SECTION 157. Arkansas Code § 6-55-108 is amended to read as follows:

<< AR ST § 6-55-108 >>

6-55-108. Rules.

The ~~Department of Career Education~~ **Office of Skills Development** and the State Apprenticeship Coordination Steering Committee shall promulgate rules necessary to implement the provisions of this chapter.

SECTION 158. Arkansas Code § 6-56-101(1), concerning the definition of “adult education program” under the laws regarding vocational and technical education, is amended to read as follows:

<< AR ST § 6-56-101 >>

(1) “Adult education program” means any classes designed to assist students in preparing for a high school equivalency test and any class designed to improve performance in general basic skills, parenting, English proficiency, or other areas funded by the Adult Education Section of the ~~Department of Career Education~~ ; and

SECTION 159. Arkansas Code § 6-58-101(1), concerning the definition of “adult education program” under the laws governing the National Park College, is amended to read as follows:

<< AR ST § 6-58-101 >>

(1) “Adult education program” means any classes designed to assist students in preparing for a high school equivalency test, any class designed to improve performance in general basic skills, parenting, English proficiency, or other areas funded by the Adult Education Section of the ~~Department of Career Education~~ ; and

SECTION 160. Arkansas Code § 6-60-105(a)(1), concerning a report of employment and earnings outcomes, is amended to read as follows:

<< AR ST § 6-60-105 >>

(a)(1) Annually, ~~beginning June 30, 2016,~~ the ~~Department~~ **Division** of Workforce Services shall prepare or contract with an entity to prepare an economic security report of employment and earning outcomes for degrees and certificates earned at state-supported institutions of higher education.

SECTION 161. Arkansas Code § 6-60-105(a)(3)(B), concerning employment and earning outcomes and reporting by the Department of Workforce Services, is amended to read as follows:

<< AR ST § 6-60-105 >>

(B) Use data available to the ~~Department~~ **Division** of Higher Education relating to the employment and earnings of graduates of degree or certificate programs from a state-supported institution of higher education;

SECTION 162. Arkansas Code § 6-60-105(b), concerning a report of employment and earnings outcomes, is amended to read as follows:

<< AR ST § 6-60-105 >>

(b) Annually, beginning July 1, 2016, a four-year state-supported institution of higher education and a two-year state-supported institution of higher education shall provide an enrolled student with electronic access to the economic security

report of employment and earnings outcomes prepared by the ~~Department~~ **Division** of Workforce Services before the student registers for classes.

SECTION 163. Arkansas Code § 6-60-105(d), concerning a report of employment and earnings outcomes, is amended to read as follows:

<< AR ST § 6-60-105 >>

(d) Annually, beginning August 1, 2016, a public school student in grade seven through grade twelve (7-12) or the student's parent or guardian shall receive a two-page summary of and electronic access to the ~~Department~~ **Division** of Workforce Service's economic security report of employment and earnings outcomes prepared under this section.

SECTION 164. Arkansas Code § 6-60-107 is amended to read as follows:

<< AR ST § 6-60-107 >>

6-60-107. Workforce initiative funding.

(a)(1) The ~~Department~~ **Division** of Higher Education shall act as the disbursing entity for all funds for the Workforce Initiative Act of 2015.

(2) The ~~Department~~ **Division** of Higher Education shall establish procedures for the request for proposals under subdivision (b)(2) of this section that shall:

(A) Be approved by the Governor;

(B) Include input from the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the ~~Department~~ **Division** of Workforce Services, the Arkansas Economic Development Commission, and the ~~Department~~ **Division** of Career **and Technical** Education; and

(C) Be reported to the Legislative Council.

(3) The ~~Department~~ **Division** of Higher Education shall establish a grant application review and award process under this section that shall:

(A) Be approved by the Governor; and

(B) Include recommendations from the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the ~~Department~~ **Division** of Workforce Services, the Arkansas Economic Development Commission, and the ~~Department~~ **Division** of Career **and Technical** Education.

(b)(1) The ~~Department~~ **Division** of Higher Education shall set funding priorities in three (3) phases.

(2)(A)(i) Phase one shall seek requests for proposals from alliances consisting of technical institutes, community colleges, universities, the kindergarten through grade twelve (K-12) education system, educational cooperatives, or employers, with input from local workforce investment boards, to receive planning grants of up to one hundred thousand dollars (\$100,000).

(ii)(a) The local workforce investment boards shall identify the industry sectors for each of their ten (10) areas.

(b) The identification process shall include a comprehensive data analysis of employer skill requirements in each sector in each region.

(c) The identified industry sectors and employment skills shall serve as the basis for an application to a request for proposal from the ~~Department~~ **Division** of Higher Education.

(B) A request for proposal shall include an education and employer alignment plan that includes state-approved, employer-driven career pathways that are supported by a secondary center that awards concurrent credit courses that can be applied to a certificate of proficiency, technical certificate, Associate of Applied Science degree, or Bachelor of Applied Science degree or a similarly designed bachelor's degree.

(C) Recognizing the limited state resources, the priority for planning grants shall be given to the applicants that best enhance regional efforts, including collaboration between community colleges, universities, public schools, education service cooperatives, the local workforce investment boards, career and technical education programs, multidistrict vocational centers, and private partnerships with clearly defined and measurable performance and effectiveness objectives.

(3)(A) Phase two shall provide implementation grants in an amount necessary to provide the resources to implement approved projects concluded and approved by the ~~Department~~ **Division** of Higher Education from phase one.

(B) Implementation grants shall include clearly defined outcome measures and last for up to two (2) years.

(4)(A) Phase three shall provide continuation grants for phase two recipients that meet or exceed the outcome measures.

(B) Continuation grants shall be used to align the performance and relevance of programs to ever changing workforce training needs.

SECTION 165. Arkansas Code § 6-61-1502(b)(6), concerning the Electrical Energy Advancement Program Fund Board, is amended to read as follows:

<< AR ST § 6-61-1502 >>

(6) The ~~Executive~~ Director of the Arkansas Economic Development Commission or his or her designee; and

SECTION 166. Arkansas Code § 6-82-1804(a)(3)(B)(i), concerning recipients of the Arkansas Future Grant, is amended to read as follows:

<< AR ST § 6-82-1804 >>

(i) The Department of Higher Education, in consultation with the ~~Department~~ **Division** of Workforce Services, determines that there was no employment position available that would reasonably enable the student to meet this requirement; or

SECTION 167. The introductory language of Arkansas Code § 6-85-304(a), concerning the eligibility of a student to receive an Arkansas Workforce Challenge Scholarship, is amended to read as follows:

<< AR ST § 6-85-304 >>

(a) A student is eligible to receive an Arkansas Workforce Challenge Scholarship for an academic year if the student applies to the Department **Division** of Higher Education by a date determined by the Department **Division** of Higher Education preceding the academic year and:

SECTION 168. Arkansas Code § 6–85–304(a)(2)(B), concerning funding for Arkansas Workforce Challenge Scholarships, is amended to read as follows:

<< AR ST § 6–85–304 >>

(B) Received a high school equivalency diploma approved by the Department of Career Education **Adult Education Section** or another state;

SECTION 169. Arkansas Code § 6–85–304(a)(5)(A) and (B), concerning funding for Arkansas Workforce Challenge Scholarships, are amended to read as follows:

<< AR ST § 6–85–304 >>

(5)(A) Whose program of study or certificate program will result in the student's being qualified to work in an occupation identified by the Department **Division** of Workforce Services under subdivision (a)(5)(B)(i) of this section.

(B)(i) The Department **Division** of Workforce Services shall provide annually to the Department **Division** of Higher Education by March 1 a list that identifies the five (5) most in-demand occupations in this state in each high-demand field under subdivision (a)(4) of this section that require the completion of a program of study that leads to an associate degree or a certificate program.

(ii) The Department **Division** of Workforce Services shall publish on its website the list under subdivision (a)(5)(B)(i) of this section and data supporting the list.

SECTION 170. Arkansas Code § 11–9–102(17)(A), concerning the definition of “state average weekly wage” under the Workers' Compensation Law, is amended to read as follows:

<< AR ST § 11–9–102 >>

(17)(A) “State average weekly wage” means the state average weekly wage determined annually by the Department **Division** of Workforce Services in the preceding calendar year pursuant to § 11–10–502.

SECTION 171. Arkansas Code § 11–9–506(a), resulting from Initiated Act 4 of 1948 and concerning the recipients of unemployment benefits and limitations on compensation, is amended to read as follows:

<< AR ST § 11–9–506 >>

(a) Any other provisions of this chapter to the contrary notwithstanding, no compensation in any amount for temporary total, temporary partial, or permanent total disability shall be payable to an injured employee with respect to any week for which the injured employee receives unemployment insurance benefits under the Department **Division** of Workforce Services Law, § 11–10–101 et seq., or the unemployment insurance law of any other state.

SECTION 172. Arkansas Code § 11–10–101 is amended to read as follows:

<< AR ST § 11–10–101 >>

11–10–101. Title.

This chapter shall be known and may be cited as the “~~Department~~ **Division** of Workforce Services Law”.

SECTION 173. Arkansas Code § 11–10–106(d), concerning the disclosure of information and penalties under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–106 >>

(d) Disclosure of Information. If any employee or member of the Board of Review, the Director of the ~~Department~~ **Division** of Workforce Services, or any employee of the director, in violation of the provisions of § 11–10–314, makes any disclosure of information obtained from any employing unit or individual in the administration of this chapter; if any person who has obtained any list of applicants for work, or of claimants or recipients of benefits, under this chapter shall use or permit the use of the list for any political purpose; or if any person who has lawfully obtained information from the ~~Department~~ **Division** of Workforce Services which was obtained from any employing unit or individual pursuant to the administration of this chapter makes an unlawful use or disclosure of the information or uses or discloses the information in a manner inconsistent with the purposes for which it was lawfully obtained, then that person shall be fined not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200) or imprisoned for not longer than ninety (90) days, or both.

SECTION 174. Arkansas Code § 11–10–108(a), concerning the protection of rights and benefits and the limitation of fees under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–108 >>

(a) No individual claiming benefits shall be charged fees or costs of any kind in any proceeding under this chapter by the Board of Review, the Director of the ~~Department~~ **Division** of Workforce Services, or his or her or its representatives, or by any court or any officer thereof, except that, if the court determines that the proceedings for judicial review have been instituted or continued without reasonable grounds, it may assess costs against the claimant or employer instituting or continuing the proceedings.

SECTION 175. Arkansas Code § 11–10–109(e), concerning the protection of rights and benefits, and the prohibition of the assignment, pledge or encumbrance of benefits, is amended to read as follows:

<< AR ST § 11–10–109 >>

(e) Benefits shall be subject to tax levies issued by the Internal Revenue Service in accordance with 26 U.S.C. § 6331(h) provided that an agreement is entered into between the Internal Revenue Service and the ~~Department~~ **Division** of Workforce Services and approved by the United States Department of Labor that provides for the payment of all administrative costs associated with processing the tax levies.

SECTION 176. Arkansas Code § 11–10–110(a), concerning the protection of rights and benefits and exceptions for withholding child support under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–110 >>

(a) At the time of filing the claim, an individual filing a new claim for unemployment compensation shall disclose whether or not the individual owes child support obligations as defined under subsection (g)(1) of this section. If any individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the Director of the Department **Division** of Workforce Services shall notify the state or local child support enforcement agency enforcing the obligation that the individual has been determined to be eligible for unemployment compensation.

SECTION 177. Arkansas Code § 11–10–111(a)(2), concerning the protection of rights and benefits and exceptions for withholding food stamp overages under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–111 >>

(2) The Director of the Department **Division** of Workforce Services shall notify the state food stamp agency enforcing the obligation of any individual who discloses that he or she owes a food stamp overage obligation and who is determined to be eligible for unemployment compensation.

SECTION 178. Arkansas Code § 11–10–201(b)(2), concerning the base period for a benefit year, is amended to read as follows:

<< AR ST § 11–10–201 >>

(2) “Extended base period” means the four (4) quarters prior to the claimant's base period. These four (4) quarters may be substituted for base period quarters on a quarter-by-quarter basis to establish a valid claim regardless of whether the wages have been used to establish a prior claim, except that any wages earned that would render the Department **Division** of Workforce Services out of compliance with applicable federal law will be excluded if used in a prior claim.

SECTION 179. Arkansas Code § 11–10–206 is amended to read as follows:

<< AR ST § 11–10–206 >>

11–10–206. Director.

As used in this chapter, unless the context clearly requires otherwise, “director” means the Director of the Department **Division** of Workforce Services.

SECTION 180. Arkansas Code § 11–10–207 is amended to read as follows:

<< AR ST § 11–10–207 >>

11–10–207. Regulations.

All regulations previously promulgated under this chapter shall be enforceable by the Director of the Department **Division** of Workforce Services and shall remain in full force and effect unless or until such time as amended by the director.

SECTION 181. Arkansas Code § 11–10–208(c), concerning an employing unit, is amended to read as follows:

<< AR ST § 11–10–208 >>

(c)(1) Any employer may on or before December 1 prior to the year the application is to become effective make application in writing to the Department **Division** of Workforce Services to participate in a joint account with one (1) or more other employers.

(2) The department **division** shall approve those applications that meet the requirements of this section.

(3) Any application to participate in a joint account may be filed on or before December 1 prior to the year the membership is to become effective, provided, however, all contributions, interest, and penalties due from the applicant-employer must be paid prior to the effective date of the employer's membership in the joint account.

(4) All such applications shall be accepted only on the condition that the applicant waive all rights he or she has in his or her individual employer account under the law when the department **division** approves his or her application and merges his or her individual account into a joint account for experience-rating purposes.

(5) Each applicant-employer shall agree to assume joint and several liability for any contributions, interest, and penalties accruing on the part of any one (1) of the employers participating in the joint account during the duration of the account in consideration for the department's **division's** granting the applicant-employer the right to participate in it.

(6) Each employer participating in a joint account agrees to maintain a sufficient record of the employee's own employment in order that the employer can furnish the department **division** with information necessary to enable the department **division** to make proper certification to the Internal Revenue Service under the Federal Unemployment Tax Act and to enable the department **division** to determine any benefit charges against the employee's separate account.

(7) No reduced rate of contributions shall be established for any joint account until each participating employer is individually eligible for the calculation of a contribution rate.

(8) All joint accounts will be maintained only on a calendar-year basis, and joint accounts must be maintained for a minimum period of two (2) calendar years unless terminated sooner by action of the department **division**.

(9) All contribution credits for all employers in a joint account will be calculated together. All benefit payments chargeable against all employers in a joint account will be calculated together. The average annual payroll of the joint account will be the average of the annual payrolls of all employers participating in the account.

(10) If any individual, type of organization, or employing unit succeeds to the business of an employer participating in a joint account under conditions which would require the transfer of any separate account of that employer to the successor, the successor shall be ipso facto a member of the joint account.

(11)(A) Withdrawal from a joint account by any participating employer may be approved if the request for withdrawal is made in writing to the department **division** on or before September 30 of the year prior to the year for which the withdrawal is to be effective.

(B) The withdrawing employer shall as of the effective date of withdrawal be treated in all respects as a newly liable employer regardless of all prior contributions or benefit payment experience.

(C) The remaining employer or employers shall continue to constitute the joint account. The withdrawal or termination of all except one (1) member shall not dissolve such joint account unless and until such last member shall withdraw or terminate.

(12) Participation in a joint account shall not affect the right of any employer to terminate the employer's liability, but after termination, the employer shall in all respects be treated as a withdrawing employer under this section.

SECTION 182. Arkansas Code § 11–10–209(10), concerning the definition of “employer” under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–209 >>

(10) For the purposes of subdivisions (1) and (3) of this section, employment shall include service that would constitute employment but for the fact that the service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into, in accordance with § 11–10–544(a), by the Director of the ~~Department~~ **Division** of Workforce Services and any agency charged with the administration of any other state or federal unemployment compensation law.

SECTION 183. Arkansas Code § 11–10–210(d), concerning the definition of “employment” under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–210 >>

(d) Service covered by an election pursuant to § 11–10–403 and service covered by an election duly approved by the Director of the ~~Department~~ **Division** of Workforce Services in accordance with an arrangement pursuant to § 11–10–544 shall be deemed to be employment during the effective period of the election.

SECTION 184. Arkansas Code § 11–10–214(b), concerning the definition of “unemployment” under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–214 >>

(b) An individual's week of unemployment shall be deemed to commence the day on which he or she registers at a local employment office, except as the Director of the ~~Department~~ **Division** of Workforce Services may, by regulation, otherwise prescribe.

SECTION 185. Arkansas Code § 11–10–215(a)(1), concerning the definition of “wages” under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–215 >>

(a)(1) As used in this chapter, “wages” means all remuneration paid for personal services, including without limitation, commissions, bonuses, cash value of all remuneration paid in any medium other than cash, the value of which shall be estimated and determined in accordance with regulations prescribed by the Director of the ~~Department~~ **Division** of Workforce Services, and tips received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to 26 U.S.C. § 6053(a).

SECTION 186. Arkansas Code § 11–10–227(f)(2)(A), concerning the treatment of Indian tribes under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–227 >>

(2)(A) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalty, after all collection activities deemed necessary by the Director of the ~~Department~~ **Division** of

Workforce Services have been exhausted shall cause services performed for the tribe to not be treated as “employment” for purposes of subsection (b) of this section.

SECTION 187. Arkansas Code § 11–10–301(a), concerning the creation of the Department of Workforce Services and the appointment of the Director of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 11–10–301 >>

(a)(1) There is created a ~~Department~~ **division** to be known as the ~~Department~~ **“Division of Workforce Services”**.

(2) that **The division** shall be administered by a full-time salaried director.

(3) who shall be **The Director of the Division of Workforce Services shall be** appointed by and serve at the pleasure of the Governor.

(4) **The director shall report to the Secretary of the Department of Commerce.**

(2) **(5)** The ~~Director of the Department of Workforce Services~~ **director** shall have resided in the state for at least five **(5)** years and shall be a qualified elector.

SECTION 188. Arkansas Code § 11–10–301(d), concerning the duties of the Director of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 11–10–301 >>

(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 189. Arkansas Code § 11–10–303 is amended to read as follows:

<< AR ST § 11–10–303 >>

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 option of the employee.

SECTION 190. Arkansas Code § 11–10–304(a)–(c), concerning the creation of the Arkansas State Employment Service, are amended to read as follows:

<< AR ST § 11–10–304 >>

(a) The Arkansas State Employment Service is established ~~in~~ **within** the ~~Department~~ **Division** of Workforce Services.

(b) The Director of the ~~Department~~ **Division** of Workforce Services, in the conduct of the service, shall establish and maintain free public employment offices in such numbers and in such places as may be necessary for the proper administration of this chapter and for the purpose of performing such functions as are within the purview of the Act of **the United States** Congress of June 6, 1933, hereinafter referred to as the “Wagner–Peysner Act”.

(c) The provisions of that act of **the United States** Congress are accepted by this state, and the ~~department~~ **division** is designated and constituted the agency of this state for the purposes of that act.

SECTION 191. Arkansas Code § 11–10–304(f), concerning the creation of the Arkansas State Employment Service, is amended to read as follows:

<< AR ST § 11–10–304 >>

(f) In addition to the services and activities otherwise authorized by this chapter, the ~~department~~ **division** may perform, or contract for the performance of, such other services and activities as shall be specified in contracts for payment or reimbursement of the costs thereof made with the United States Secretary of Labor, with any federal, state, or local public agency, or administrative entity, or with any employer or private for-profit or nonprofit organization under, in accordance with, and in furtherance of the purposes of the Job Training Partnership Act, Pub. L. No. 97–300 [repealed].

SECTION 192. Arkansas Code § 11–10–306(a), concerning the Director of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 11–10–306 >>

(a) It shall be the duty of the Director of the ~~Department~~ **Division** of Workforce Services to administer this chapter.

SECTION 193. Arkansas Code § 11–10–306(g)(1), concerning the Director of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 11–10–306 >>

(g)(1) The director, in addition to other provisions of this chapter, is authorized to set up and maintain ~~in~~ **within** the ~~Department~~ **Division** of Workforce Services a unit known as the enforcement unit **“Enforcement Unit”**.

SECTION 194. Arkansas Code § 11–10–307(a)(1), concerning the rule-making authority of the Director of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 11–10–307 >>

(a)(1) General and special rules may be adopted, amended, or rescinded by the Director of the ~~Department~~ **Division** of Workforce Services only after public hearing or opportunity to be heard thereon, on which proper notice has been given.

SECTION 195. Arkansas Code § 11–10–308(a), concerning the Director of the Department of Workforce Services and the administrative determinations of coverage, is amended to read as follows:

<< AR ST § 11–10–308 >>

(a) The Director of the ~~Department~~ **Division** of Workforce Services may, upon his or her own motion or upon application of an employing unit, after notice and opportunity for hearing, make findings of fact and, on the basis thereof, determinations with respect to whether an employing unit constitutes an employer and whether services performed for or in connection with the business of an employing unit constitute employment for that employing unit.

SECTION 196. Arkansas Code § 11–10–309 is amended to read as follows:

<< AR ST § 11–10–309 >>

11–10–309. Director — Publication of rules, reports, etc.

The Director of the ~~Department~~ **Division** of Workforce Services shall make available for distribution to the public the text of this chapter, his or her regulations and general and special rules, his or her annual report to the Governor, and any other material he or she deems relevant and suitable and shall furnish the materials to any person upon application therefor.

SECTION 197. Arkansas Code § 11–10–310(a), concerning personnel and the Director of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 11–10–310 >>

(a) Subject to other provisions of this chapter, the Director of the ~~Department~~ **Division** of Workforce Services is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of his or her duties under this chapter.

SECTION 198. Arkansas Code § 11–10–311 is amended to read as follows:

<< AR ST § 11–10–311 >>

11–10–311. Employment stabilization.

The Director of the ~~Department~~ **Division** of Workforce Services shall take all appropriate steps to reduce and prevent unemployment, to encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance, to investigate, recommend, advise, and assist in the establishment and operation by municipalities, counties, planning districts, school districts, and the state of programs for public works to be used in times and places of economic downturn and high unemployment for the purpose of promoting the employment of unemployed and

underemployed workers throughout the state, and to these ends, to carry on research and such investigations as he or she shall deem necessary and to publish the results thereof.

SECTION 199. Arkansas Code § 11–10–312(a), concerning the cooperation between the Director of the Department of Workforce Services and the United States Department of Labor, is amended to read as follows:

<< AR ST § 11–10–312 >>

(a) In the administration of this chapter, the Director of the ~~Department~~ **Division** of Workforce Services shall cooperate with the United States Department of Labor to the fullest extent consistent with the provisions of this chapter and shall take such action, through the adoption of such appropriate rules, regulations, administrative methods, and standards as may be necessary to secure to this state and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation, the Federal Unemployment Tax Act, the Wagner–Peysner Act, the Job Training Partnership Act [repealed], and the Federal–State Extended Unemployment Compensation Act of 1970.

SECTION 200. The introductory language of Arkansas Code § 11–10–313(a), concerning compensation based on multiple-state earnings, is amended to read as follows:

<< AR ST § 11–10–313 >>

(a) The Director of the ~~Department~~ **Division** of Workforce Services shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this chapter with his or her wages and employment covered under the unemployment compensation laws of other states which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in those situations and which include provisions for:

SECTION 201. Arkansas Code § 11–10–314(a), concerning the disclosure of information under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(a)(1) Except as otherwise provided in this section, information obtained by the Director of the ~~Department~~ **Division** of Workforce Services from any employing unit or individual pursuant to the administration of this chapter and any determination as to the rights or status of any employer or individual made by the director pursuant to the administration of this chapter shall be held confidential and shall be protected by government privilege.

(2)(A) The information shall not be used in any action or proceeding before any court, administrative tribunal, or body except those created by this chapter unless the ~~Department~~ **Division** of Workforce Services is a party, a real party in interest, or a complainant therein or unless the litigation involves criminal actions brought under provisions of this chapter.

(B) This information shall not be otherwise disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity.

SECTION 202. Arkansas Code § 11–10–314(b)(1), concerning the inspection and copying of records, and disclosure of information under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11-10-314 >>

(b)(1) Information from the records of the ~~Department~~ **Division** of Workforce Services that concerns a claim for benefits shall be available for inspection and copying by any interested party or his or her legal representative to the extent necessary for the proper representation of his or her position in any proceeding under this chapter.

SECTION 203. Arkansas Code § 11-10-314(b)(2)(B), concerning the provision of information to the parties, and disclosure of information under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11-10-314 >>

(B) Any individual or employer may be provided any information from the records of the ~~Department~~ **Division** of Workforce Services to the extent that the information was provided by him or her; and

SECTION 204. Arkansas Code § 11-10-314(e)(1), concerning the furnishing of information to other entities, and the disclosure of information under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11-10-314 >>

(e)(1)(A) Upon request of a public agency administering or supervising the administration of a state plan of ~~Aid to Families with Dependent Children~~ **Temporary Assistance for Needy Families** approved under Part A of Title IV of the Social Security Act, or the administration of a state plan of medical assistance approved under Title XIX of the Social Security Act, the administration of a state plan of food stamps approved under the Food Stamp Act of 1977, Pub. L. No. 95-113, request of a public agency charged with any duty or responsibility authorized or required under the Child Support and Establishment of Paternity Program provisions of Part D of Title IV of the Social Security Act, or request of officers or employees of the United States Department of Agriculture, the director shall furnish to the public agency information contained in the files of the ~~Department~~ **Division** of Workforce Services with respect to any individual specified in the request as to whether the individual is receiving, has received, or has made application for unemployment compensation, the date the individual was determined eligible or ineligible, the date the individual's claim was exhausted, the weekly benefit amount actually paid and the date paid, the individual's weekly benefit amount, whether the individual is receiving or has received wages, the name and address of the employer from whom the wages have been received and the amount of any wages received by the individual, the current or most recent home address of the individual, whether the individual has refused an offer of employment, and, if so, a description of the employment so offered, including, but not limited to, the terms, conditions, and rate of pay therefor.

(B) The requesting agency shall reimburse the ~~Department~~ **Division** of Workforce Services for costs incurred in providing the requested information.

SECTION 205. Arkansas Code § 11-10-314(e)(3) and (4), concerning the release of wage information to other state agencies, and the disclosure of information under the Department of Workforce Services Law, are amended to read as follows:

<< AR ST § 11-10-314 >>

(3) Information requested by the Department of Human Services and the Department of Finance and Administration under this subsection shall be released to the appropriate divisions of the respective departments on a basis in

accordance with a plan to be developed between the appropriate division of each department and the ~~Department~~ **Division** of Workforce Services.

(4)(A) In addition to the above, wage information contained in the records of the ~~Department~~ **Division** of Workforce Services shall be made available to the extent necessary for purposes of determining an individual's eligibility for aid or services or the amount of the aid or services to which an individual may be entitled under a state plan for aid and services to needy families with children approved under Part A of Title IV of the Social Security Act to a state or political subdivision thereof charged with the responsibility of making the determinations when the information is specifically requested on an individual by name and Social Security number by the state or political subdivision for those purposes.

(B) The governmental agency or entity requesting any information under this subsection shall reimburse the ~~Department~~ **Division** of Workforce Services for any and all costs incurred by the agency in making the requested information available.

SECTION 206. Arkansas Code § 11–10–314(e)(5)(B), concerning the disclosure of information to federal entities under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(B) The requesting agency shall reimburse the ~~Department~~ **Division** of Workforce Services for the costs incurred in providing the requested information.

SECTION 207. Arkansas Code § 11–10–314(f)(1)(A), concerning the examination of records by the parties and the disclosure of information under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(f)(1)(A)(i) All records, files, and documents of the ~~Department~~ **Division** of Workforce Services pertaining to claims, benefit payments, assessments, contributions, disqualifications for benefits, removals of disqualifications for benefits, charges and credits to accounts, and classification of employers, wherever located, which relate in any way to an employer or an employee of the employer shall be made available at all times for examination by an affected employer, a claimant, or the duly authorized representative of an employer or a claimant.

(ii) But no record, file, or document shall be removed from the custody of the ~~Department~~ **Division** of Workforce Services.

SECTION 208. Arkansas Code § 11–10–314(f)(2), concerning the application of res judicata to findings of the Department of Workforce Services and the disclosure of information under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(2) No finding of fact or conclusion of law contained in a decision of the ~~Department~~ **Division** of Workforce Services, an appeals hearing officer, the Board of Review, or a court obtained under this chapter shall have a preclusive effect in any other action or proceeding except proceedings under this chapter.

SECTION 209. Arkansas Code § 11–10–314(h), concerning the disclosure of information pursuant to federal law and under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(h)(1) Notwithstanding any other provisions of this chapter, information obtained in the administration of this chapter and in the administration of and concerning programs under the Workforce Innovation and Opportunity Act, Pub. L. No. 113–128, programs by the ~~Department~~ **Division** of Workforce Services shall be made available to persons and agencies for purposes appropriate to the ~~Department~~ **Division** of Workforce Services' operation and administration of programs under the Workforce Innovation and Opportunity Act, Pub. L. No. 113–128.

(2) Under an agreement between the ~~Department~~ **Division** of Workforce Services and the appropriate agencies, the director shall establish safeguards as are necessary to protect the confidential information made available pursuant to this section.

SECTION 210. Arkansas Code § 11–10–314(i)(1)(B), concerning documents received into evidence and the disclosure of information under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(B) Photocopies of ~~Department~~ **Division** of Workforce Services records containing the information shall be received in evidence in any court or administrative proceeding had under the law provided that the copies have been sealed with the official seal of the director.

SECTION 211. Arkansas Code § 11–10–314(j)(5)(B), concerning the disclosure of information to the Arkansas Department of Transportation under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(B) Other information that is necessary for the effective operation of their respective programs in order to allow cooperation between the Arkansas Department of Transportation and the ~~Department~~ **Division** of Workforce Services; and

SECTION 212. Arkansas Code § 11–10–314(j)(6), concerning disclosure of information obtained by the Director of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 11–10–314 >>

(6) The ~~Arkansas Department~~ **Division** of Environmental Quality may be provided the employer's name, mailing address, business location in Arkansas, the current number of employees, and the code for each employer classified by the agency in the Standard Industrial Classification Code or an equivalent classification code under the North American Industry Classification System.

SECTION 213. Arkansas Code § 11–10–314(k)(3) and (4), concerning restrictions on the re-disclosure of information under the Department of Workforce Services Law, are amended to read as follows:

<< AR ST § 11–10–314 >>

(3) The governmental agency or entity requesting any information under subsection (j) of this section shall reimburse the ~~Department~~ **Division** of Workforce Services for any and all costs incurred by the agency in making the requested information available.

(4) Information requested by the state entities specified in subsection (j) of this section shall be released to the appropriate entities in accordance with agreements between these entities and the ~~Department~~ **Division** of Workforce Services.

SECTION 214. Arkansas Code § 11–10–314(l), concerning the use of wage statements in calculating child support obligations and the disclosure of information under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(l)(1) Upon receipt of an order from a court of record of this state by the director for information pertaining to an individual's current wage file and unemployment benefit payment record as contained in the records of the ~~Department~~ **Division** of Workforce Services, the information shall be made available to the court for the purpose of determining an amount of support to be set during a proceeding for the establishment or collection of child support obligations, or both.

(2) A photocopy of the records containing the information or a statement that no information for the requested individual is contained in the file of the ~~Department~~ **Division** of Workforce Services under the official seal of the director shall be received into evidence in the court of record.

(3) The court order shall be satisfied by mailing the document under seal directly to the court of record within ten (10) working days of receipt of the court order unless a motion challenging the information is filed or a subpoena is issued requiring the appearance of an employee of the ~~Department~~ **Division** of Workforce Services with the court within thirty (30) days prior to the trial.

(4) The director shall comply with the court order for information if the following conditions are met:

(A) The order is delivered at least ten (10) workdays prior to the date that the information is required;

(B) The court order includes the name and Social Security number of the individual for whom information is requested; and

(C) The court order is accompanied by the payment of ten dollars (\$10.00) by the moving party seeking the information to the ~~Department~~ **Division** of Workforce Services for costs associated with producing the information.

(5) Provided, however, the ~~Department~~ **Division** of Workforce Services may not release information under this subsection if the United States Secretary of Labor rules that release of the information would be grounds to find that the state is in substantial noncompliance with 42 U.S.C. § 503 or 26 U.S.C. § 3304.

SECTION 215. Arkansas Code § 11–10–314(m)(2), concerning restrictions on re-disclosure of information under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(2) The State Insurance Department shall be strictly prohibited from making any disclosure or ~~redisclosure~~ **re-disclosure** of any record containing confidential information provided by the ~~Department~~ **Division** of Workforce Services under this subsection.

SECTION 216. Arkansas Code § 11–10–314(n)(1), concerning the disclosure of information to the Workers' Compensation Commission under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(n)(1) ~~Beginning on and after January 1, 1995, the~~ **The** Workers' Health and Safety Division of the Workers' Compensation Commission may be furnished, for production of the extra-hazardous employer identification formula, the following data to the extent that such data is maintained in the ~~department's~~ **Division of Workforce Services'** computer database:

- (A) Employer name;
- (B) Federal employer identification number;
- (C) Employer address and plant locations in Arkansas;
- (D) Employer telephone number;
- (E) Employer standard industrial classification code;
- (F) Maximum number of employees by calendar year;
- (G) Unemployment insurance account number; and
- (H) Reporting unit number.

(2)(A) The Workers' Health and Safety Division shall be strictly prohibited from making any disclosure or ~~redisclosure~~ **re-disclosure** of the confidential information which may be made available to it under this subsection.

(B) Additionally, the Workers' Health and Safety Division shall reimburse the ~~Department~~ **Division** of Workforce Services for any and all costs incurred by the ~~Department~~ **Division** of Workforce Services in making the information available.

SECTION 217. Arkansas Code § 11–10–314(o)(3), concerning compliance with federal law and the disclosure of information under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(3) Information requested pursuant to Pub. L. No. 104–193 shall only be released in accordance with an agreement between the ~~Department~~ **Division** of Workforce Services and the appropriate state or federal agency. Safeguards protecting the confidentiality of such data and reimbursement of costs for providing such information will be made part of the agreement.

SECTION 218. Arkansas Code § 11–10–314(q), concerning the disclosure of information to the State Insurance Department under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(q) The Workers' Compensation Fraud Investigation Unit of the State Insurance Department may be furnished pursuant to a subpoena any individual's wage file and unemployment benefit payment record as contained in the records of the ~~Department~~ **Division** of Workforce Services. These records are being provided for the sole purpose of investigating potential workers' compensation fraud. The unit is strictly prohibited from making any disclosure or ~~redisclosure~~ **re-disclosure** of the confidential information which may be made available to it under the provisions of this subsection. However, records provided to the unit pursuant to this subsection may be made part of a unit's referral for criminal charges to a local prosecutor under § 11–9–106(d)(3) and used in any resulting criminal trial or prosecution, including cases tried by employees of the unit under the provisions of § 11–9–106(e)(2). Reasonable costs may be required for producing the subpoenaed information.

SECTION 219. Arkansas Code § 11–10–314(r)(1)–(3), concerning the disclosure of information for law enforcement purposes under the Department of Workforce Services Law, are amended to read as follows:

<< AR ST § 11–10–314 >>

(r)(1) The director, pursuant to a valid subpoena issued by a state prosecuting attorney, the Attorney General, a United States Attorney, a United States Magistrate Judge, or the Federal Bureau of Investigation, may release information in the possession of the ~~Department~~ **Division** of Workforce Services to law enforcement officials who seek unemployment information for the investigation or prosecution of a crime or to enforce an order of a court in a criminal matter.

(2) Nothing in this section shall be deemed to prohibit the ~~Department~~ **Division** of Workforce Services from providing information subpoenaed by the Attorney General in any case.

(3)(A) The director may release information in the possession of the ~~Department~~ **Division** of Workforce Services to federal public officials in the performance of their official duties acting through the United States Attorney's office.

(B) The information will be disclosed under an information exchange agreement with the United States Attorney's office, which will ensure the protection of the confidentiality of the information and the cost of providing the information.

SECTION 220. Arkansas Code § 11–10–314(r)(4)(B), concerning the obligation to comply with subpoenas and the disclosure of information under the Department of Workforce Services Law, is amended to read as follows:

<< AR ST § 11–10–314 >>

(B) Honor the subpoena and subpoenas dealing with similar subject matter, but only if a court of competent jurisdiction finds that the need to examine the subpoenaed information outweighs the express policy of maintaining confidentiality in matters involving individuals and employers dealing with the ~~Department~~ **Division** of Workforce Services.

SECTION 221. Arkansas Code § 11–10–315 is amended to read as follows:

<< AR ST § 11–10–315 >>

11–10–315. Authority to administer oaths, issue subpoenas, etc.

In the discharge of the duties imposed by this chapter, the Director of the ~~Department~~ **Division** of Workforce Services, the chair of an appeal tribunal, the members of the Board of Review, and any duly authorized representative of any of them shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with disputed claims or the administration of this chapter.

SECTION 222. Arkansas Code § 11–10–316(a), concerning the refusal to obey a subpoena, is amended to read as follows:

<< AR ST § 11–10–316 >>

(a) In case of contumacy by or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Director of the ~~Department~~ **Division** of Workforce Services, the Board of Review, the chair of an appeal tribunal, or any duly authorized representative of any of them shall have jurisdiction to issue to the person an order requiring the person to appear before the director, the board, the chair of an appeal tribunal, or any duly authorized representative of any of them, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

SECTION 223. Arkansas Code § 11–10–317(a), concerning the protection against self-incrimination, is amended to read as follows:

<< AR ST § 11–10–317 >>

(a) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Director of the ~~Department~~ **Division** of Workforce Services, the Board of Review, the chair of an appeal tribunal, or any duly authorized representative of any of them or in obedience to the subpoena of any of them in any cause or proceeding before the director, the board, or an appeal tribunal on the ground that the testimony or evidence, documentary or otherwise, required of him or her may tend to incriminate him or her or subject him or her to a penalty or forfeiture.

SECTION 224. Arkansas Code § 11–10–318(a)(1), concerning the responsibilities of the employing unit, is amended to read as follows:

<< AR ST § 11–10–318 >>

(a)(1) Each employing unit shall keep true and accurate work records, for such periods of time and containing such information as the Director of the ~~Department~~ **Division** of Workforce Services may prescribe.

SECTION 225. Arkansas Code § 11–10–319(a), concerning representation in court of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 11-10-319 >>

(a) Civil Actions. In any civil action to enforce the provisions of this chapter, the Director of the ~~Department~~ **Division** of Workforce Services, the Board of Review, and the state may be represented by any qualified attorney who is employed by the director and is designated by him or her for this purpose or at the director's request by the Attorney General.

SECTION 226. Arkansas Code § 11-10-320(b), concerning the creation of the Employment Security Administration Fund, is amended to read as follows:

<< AR ST § 11-10-320 >>

(b) All money deposited or paid into this fund shall be continuously available to the Director of the ~~Department~~ **Division** of Workforce Services for expenditure in accordance with the provisions of this chapter and shall not lapse at any time or be transferred to any other fund.

SECTION 227. Arkansas Code § 11-10-321(b), concerning disbursement from the Employment Security Administration Fund, is amended to read as follows:

<< AR ST § 11-10-321 >>

(b) Disbursements shall be paid out of the fund on requisitions drawn by the Director of the ~~Department~~ **Division** of Workforce Services under regulations of the director.

SECTION 228. Arkansas Code § 11-10-322(b), concerning reimbursement of the Employment Security Administration Fund, is amended to read as follows:

<< AR ST § 11-10-322 >>

(b) Upon receipt of such a finding by the United States Secretary of Labor, the Director of the ~~Department~~ **Division** of Workforce Services shall promptly report the amount required for the replacement to the Governor, and the Governor shall, at the earliest opportunity, submit to the General Assembly a request for the appropriation of that amount.

SECTION 229. Arkansas Code § 11-10-402 is amended to read as follows:

<< AR ST § 11-10-402 >>

11-10-402. Termination.

Except as otherwise provided in § 11-10-403, an employing unit may cease to be an employer subject to this chapter in accordance with the regulations of the Director of the ~~Department~~ **Division** of Workforce Services.

SECTION 230. Arkansas Code § 11-10-403(a)(1), concerning a written election from an employing unit, is amended to read as follows:

<< AR ST § 11-10-403 >>

(a)(1) An employing unit, not otherwise subject to this chapter, which filed with the Director of the ~~Department~~ **Division** of Workforce Services its written election to become an employer subject hereto for not less than two (2) calendar years

shall, with the written approval of the election by the director, become an employer subject hereto to the same extent as all other employers, as of the date stated in the approval.

SECTION 231. Arkansas Code § 11–10–404(a)(1)(B), concerning nonprofit employers, is amended to read as follows:

<< AR ST § 11–10–404 >>

(B) Election is to be made by filing with the Director of the ~~Department~~ **Division** of Workforce Services a notice of the election at least thirty (30) days prior to the effective date of the election.

SECTION 232. Arkansas Code § 11–10–501(b), concerning payments from the Unemployment Compensation Fund, is amended to read as follows:

<< AR ST § 11–10–501 >>

(b) All benefits shall be paid through ~~Department~~ **Division** of Workforce Services offices, in accordance with such regulations as the Director of the ~~Department~~ **Division** of Workforce Services may prescribe.

SECTION 233. Arkansas Code § 11–10–502(e), concerning the weekly benefit amount for unemployment payments, is amended to read as follows:

<< AR ST § 11–10–502 >>

(e) On June 1 of each year, the Director of the ~~Department~~ **Division** of Workforce Services shall determine the average weekly wage for insured employment for the preceding calendar year in the following manner:

- (1) The sum of the total monthly employment reported for the calendar year shall be divided by twelve (12) to determine the average monthly employment;
- (2) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage; and
- (3) The average annual wage shall be divided by fifty-two (52) to determine the average weekly wage for insured employment.

SECTION 234. Arkansas Code § 11–10–505(a)(2)(B), concerning the failure of a base-period employer to respond, is amended to read as follows:

<< AR ST § 11–10–505 >>

(B) The Director of the ~~Department~~ **Division** of Workforce Services may accept the statement given by the claimant as his or her reason for separation from the base-period employer and may base his or her determination on the statement given by the claimant.

SECTION 235. Arkansas Code § 11–10–505(c), concerning the failure of a base-period employer to respond, is amended to read as follows:

<< AR ST § 11-10-505 >>

(c) ~~On or before January 1, 2012, the~~ **The** director shall make available on the website of the ~~Department~~ **Division** of Workforce Services a program that will allow employers the option to receive and respond to notice under this section.

SECTION 236. Arkansas Code § 11-10-506(a)(2)(A), concerning seasonal employment and benefit rights, is amended to read as follows:

<< AR ST § 11-10-506 >>

(2)(A) After a study of previous employment records, and after investigation and hearing, the Director of the ~~Department~~ **Division** of Workforce Services shall determine the normal seasonal period or periods during which workers are ordinarily employed for the purpose of carrying on seasonal operations in each seasonal industry. Until the determination by the director, no industry shall be deemed to be seasonal. The director may initiate a study of an industry upon his or her own motion or upon a request filed with the director by any employing unit or person that would be affected by any determination made as a result of such a study. If a study is made, it shall be mandatory for the director to make his or her determination and report thereon within ninety (90) days after written application for the determination has been filed. If the director initiates the study of an industry upon his or her own motion and finds that the industry meets the seasonal requirements set forth in this section, he or she shall make his or her determination and report within ninety (90) days after the study is initiated. In either event, the industry shall be classified as a seasonal industry effective on the January 1 immediately following the date of the director's determination. Provided that, any employer who is classified as a seasonal employer under these provisions may make a written request to the director asking not to be treated as a seasonal employer. If the request is approved, treatment as a seasonal employer will cease effective January 1 of the following calendar year.

SECTION 237. The introductory language of Arkansas Code § 11-10-507, concerning the registration and reporting required for eligibility for benefits, is amended to read as follows:

<< AR ST § 11-10-507 >>

An insured worker shall be eligible to receive benefits with respect to any week only if the Director of the ~~Department~~ **Division** of Workforce Services finds that:

SECTION 238. Arkansas Code § 11-10-507(2), concerning the registration and reporting required for eligibility for benefits, is amended to read as follows:

<< AR ST § 11-10-507 >>

(2) Registration and Reporting. He or she has registered for work at and thereafter continued to report to a ~~Department~~ **Division** of Workforce Services office in accordance with such regulations as the director may prescribe. The director, by regulation, may waive or alter either or both of the requirements of this subdivision (2) as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he or she finds that compliance with these requirements would be oppressive or would be inconsistent with the purpose of this chapter. However, no such regulations shall conflict with § 11-10-501;

SECTION 239. Arkansas Code § 11-10-507(3)(E), concerning registration by employees who will be recalled by the employer, and the registration and reporting required for eligibility for benefits, is amended to read as follows:

<< AR ST § 11–10–507 >>

(E) An individual on short-term layoff who expects to be recalled by his or her employer to a full-time job and whose employer intends to recall the individual to a full-time job within ten (10) weeks after the initial date of his or her layoff shall not be required during the layoff to register for work at a ~~department~~ **division** office or to seek other work.

SECTION 240. Arkansas Code § 11–10–508(a), concerning the eligibility for benefits in a labor dispute, is amended to read as follows:

<< AR ST § 11–10–508 >>

(a) If so found by the Director of the ~~Department~~ **Division** of Workforce Services, no individual may serve a waiting period or be paid benefits for the duration of any period of unemployment if he or she lost his or her employment or has left his or her employment by reason of a labor dispute other than a lockout at the factory, establishment, or other premises at which he or she was employed, regardless of whether or not the labor dispute causes any reduction or cessation of operations at the factory, establishment, or other premises of the employer, as long as the labor dispute continues, and thereafter for such reasonable period of time, if any, as may be necessary for that factory, establishment, or other premises to resume normal operation.

SECTION 241. Arkansas Code § 11–10–513(a)(1), concerning disqualification for voluntarily leaving work, is amended to read as follows:

<< AR ST § 11–10–513 >>

(a)(1) If so found by the Director of the ~~Department~~ **Division** of Workforce Services, an individual shall be disqualified for benefits if he or she voluntarily and without good cause connected with the work left his or her last work.

SECTION 242. Arkansas Code § 11–10–514(a)(1), concerning disqualification and discharge for misconduct, is amended to read as follows:

<< AR ST § 11–10–514 >>

(a)(1) If so found by the Director of the ~~Department~~ **Division** of Workforce Services, an individual shall be disqualified for benefits if he or she is discharged from his or her last work for misconduct in connection with the work.

SECTION 243. Arkansas Code § 11–10–515(a)(1)(A), concerning disqualification for failure or refusal to apply for or accept suitable work, is amended to read as follows:

<< AR ST § 11–10–515 >>

(a)(1)(A) If so found by the Director of the ~~Department~~ **Division** of Workforce Services, an individual shall be disqualified for benefits if he or she has failed without good cause:

(i) To apply for available suitable work when so directed by a ~~Department~~ **Division** of Workforce Services office;
or

(ii) To accept suitable work when offered.

SECTION 244. Arkansas Code § 11–10–516(a), concerning the disqualification for refusal to report after a layoff, is amended to read as follows:

<< AR ST § 11–10–516 >>

(a)(1) If so found by the Director of the ~~Department~~ **Division** of Workforce Services, an individual shall be disqualified for benefits if while on a layoff of ten (10) weeks or less, he or she refuses to report for work within one (1) week after notice of recall to the same job or to a suitable job similar to the one from which he or she was laid off, or if while unemployed, he or she voluntarily removes his or her name from a recall list set forth in a written contract of a base-period employer, provided that the employer files a written notice of the refusal of recall or removal from a recall list with the ~~Department~~ **Division** of Workforce Services within seven (7) days of the occurrence.

(2) The disqualification shall begin on the date of receipt of the written notice of refusal of recall or removal from the recall list by the ~~department~~ **division** and shall continue until, subsequent to filing his or her claim, he or she has had at least thirty (30) days of employment covered by an unemployment compensation law of this state, or another state, or of the United States.

SECTION 245. The introductory language to Arkansas Code § 11–10–517, concerning the disqualification for the receipt of other remunerations, is amended to read as follows:

<< AR ST § 11–10–517 >>

If so found by the Director of the ~~Department~~ **Division** of Workforce Services, an individual shall be disqualified for benefits for any week with respect to which he or she receives or has received remuneration in the form of:

SECTION 246. Arkansas Code § 11–10–517(1)(B)(ii)(b), concerning the allocation of benefits and the disqualification for the receipt of other remunerations, is amended to read as follows:

<< AR ST § 11–10–517 >>

(b) If the employer does not specify the number of weeks under subdivision (1)(B)(ii)(a) of this section, the ~~Department~~ **Division** of Workforce Services shall allocate the separation pay using the claimant's average weekly wage;

SECTION 247. The introductory language of Arkansas Code § 11–10–519(a), concerning the penalty of disqualification for a false statement or misrepresentation, is amended to read as follows:

<< AR ST § 11–10–519 >>

(a) If so found by the Director of the ~~Department~~ **Division** of Workforce Services, an individual shall be disqualified for benefits:

SECTION 248. Arkansas Code § 11–10–519(b), concerning the penalty of disqualification for a false statement or misrepresentation, is amended to read as follows:

<< AR ST § 11–10–519 >>

(b) Upon request of the Legislative Council, the ~~Department~~ **Division** of Workforce Services shall provide reports regarding unemployment insurance claim fraud and its efforts to prevent the fraud.

SECTION 249. Arkansas Code § 11–10–520(a), concerning claims and the posting of information by an employer, is amended to read as follows:

<< AR ST § 11–10–520 >>

(a) Each employer shall post and maintain, in places readily accessible to individuals in the employer's employ, printed statements concerning benefit rights, claims for benefits, and such other matters relating to the administration of this chapter as the Director of the ~~Department~~ **Division** of Workforce Services may by regulation prescribe.

SECTION 250. Arkansas Code § 11–10–521(a), concerning claims, filings, and the notice to the last employer, is amended to read as follows:

<< AR ST § 11–10–521 >>

(a) Claims for benefits shall be made in accordance with regulations the Director of the ~~Department~~ **Division** of Workforce Services prescribes.

SECTION 251. Arkansas Code § 11–10–521(c), concerning claims, filings, and the notice to the last employer, is amended to read as follows:

<< AR ST § 11–10–521 >>

(c) On or before January 1, 2012, the director shall make available on the website of the ~~Department~~ **Division** of Workforce Services a program that will allow employers the option to receive and respond to notice under this section.

SECTION 252. Arkansas Code § 11–10–522(a)(1)(A), concerning the determination of a claim, is amended to read as follows:

<< AR ST § 11–10–522 >>

(1)(A) A monetary determination upon a claim filed pursuant to § 11–10–521(a) shall be made promptly by the Director of the ~~Department~~ **Division** of Workforce Services and shall include total wage credits as reported paid by each employer during the claimant's base period and the identity of each base-period employer.

SECTION 253. Arkansas Code § 11–10–523(f), concerning the payment of expenses for the Board of Review, is amended to read as follows:

<< AR ST § 11–10–523 >>

(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 254. Arkansas Code § 11–10–523(g)(2)(C), concerning facilities for the Board of Review, is amended to read as follows:

<< AR ST § 11–10–523 >>

(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 255. Arkansas Code § 11–10–524(a), concerning appeals from the decisions of the Board of Review, is amended to read as follows:

<< AR ST § 11–10–524 >>

(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 256. Arkansas Code § 11–10–526(a)(2), concerning the procedures adopted by the Board of Review, is amended to read as follows:

<< AR ST § 11–10–526 >>

(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 regulations governing the manner of filing appeals, the conduct of hearings, and other appellate procedures, consistent with this chapter.

SECTION 257. Arkansas Code § 11–10–527(a), concerning the claims and conclusiveness of determinations and decisions by the Board of Review, is amended to read as follows:

<< AR ST § 11–10–527 >>

(a) Except insofar as reconsideration of any determination is had under the provisions of § 11–10–522, any right, fact, or matter in issue, directly passed upon or necessarily involved in a determination or redetermination that has become final, or in a decision on appeal under §§ 11–10–523 — 11–10–530 that has become final, shall be conclusive for all the purposes of this chapter as between the Director of the ~~Department~~ **Division** of Workforce Services, the claimant, and all employing units who had notice of the determination, redetermination, or decision.

SECTION 258. Arkansas Code § 11–10–528(a), concerning the finality of decisions of the Board of Review, is amended to read as follows:

<< AR ST § 11–10–528 >>

(a) The final decisions of the Board of Review or of an appeal tribunal, and the principles of law declared by it in arriving at the decisions, unless expressly or impliedly overruled by a later decision of the board or by a court of competent jurisdiction, shall be binding upon the Director of the ~~Department~~ **Division** of Workforce Services and any examiner or appeal tribunal in subsequent proceedings which involve similar questions of law.

SECTION 259. Arkansas Code § 11–10–529(a)(2)(B), concerning petitions for review, claims, and judicial review of decisions of the Board of Review, is amended to read as follows:

<< AR ST § 11–10–529 >>

(B) The Director of the ~~Department~~ **Division** of Workforce Services is made a party to the proceedings.

SECTION 260. Arkansas Code § 11–10–530(a), concerning claims, representation, and administrative appeals regarding a claim for benefits, is amended to read as follows:

<< AR ST § 11–10–530 >>

(a) The Director of the ~~Department~~ **Division** of Workforce Services shall be a party entitled to notice in any proceeding involving a claim for benefits before a special examiner, an appeal tribunal, or the Board of Review.

SECTION 261. Arkansas Code § 11–10–532(a)(1), concerning claims, recovery, and repayment to the Unemployment Compensation Fund, is amended to read as follows:

<< AR ST § 11–10–532 >>

(a)(1) If the Director of the ~~Department~~ **Division** of Workforce Services finds that a person knowingly has made a false statement or misrepresentation of a material fact or knowingly has failed to disclose a material fact and as a result of either action has received benefits under this chapter to which he or she was not entitled, then he or she is liable to repay the amount to the Unemployment Compensation Fund, or the director may recover the amount of the overpayment by deductions from any future benefits payable to the person under this chapter.

SECTION 262. Arkansas Code § 11–10–532(d)(4), concerning claims, recovery, and repayment to the Unemployment Compensation Fund, is amended to read as follows:

<< AR ST § 11–10–532 >>

(4) An interest payment recovered from an overpayment to a claimant shall be deposited into the ~~Department~~ **Division** of Workforce Services Special Fund.

SECTION 263. Arkansas Code § 11–10–532(f), concerning decisions by the Department of Workforce Services, claims, recovery, and repayment to the Unemployment Compensation Fund, is amended to read as follows:

<< AR ST § 11–10–532 >>

(f) The Department **Division** of Workforce Services may issue an overpayment determination contemporaneously with any other determination.

SECTION 264. Arkansas Code § 11–10–533(a), concerning the investigation of claims filed by state employees, is amended to read as follows:

<< AR ST § 11–10–533 >>

(a) The Department **Division** of Workforce Services shall investigate all claims for benefits filed by state employees whether or not the employing state agency lodges a protest to the payment of the benefits.

SECTION 265. Arkansas Code § 11–10–534(8)(A), concerning the definition of “rate of insured unemployment” under the laws governing unemployment benefits, is amended to read as follows:

<< AR ST § 11–10–534 >>

(A) The average weekly number of individuals filing claims for regular benefits in this state for weeks of unemployment with respect to the most recent thirteen (13) consecutive week period, as determined by the Director of the Department **Division** of Workforce Services on the basis of his or her reports to the United States Secretary of Labor; by

SECTION 266. Arkansas Code § 11–10–535 is amended to read as follows:

<< AR ST § 11–10–535 >>

11–10–535. Extended benefits — Effect of provisions relating to regular benefits.

Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the Director of the Department **Division** of Workforce Services, the provisions of this chapter which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

SECTION 267. The introductory language of Arkansas Code § 11–10–536, concerning edibility for extended benefits, is amended to read as follows:

<< AR ST § 11–10–536 >>

An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the Director of the Department **Division** of Workforce Services finds that with respect to that week:

SECTION 268. Arkansas Code § 11–10–539(a), concerning extended benefits, periods, and computations, is amended to read as follows:

<< AR ST § 11–10–539 >>

(a) Whenever an extended benefit period is to become effective in this state as a result of a state “on” indicator or an extended benefit period is to be terminated in this state as a result of a state “off” indicator, the Director of the Department **Division** of Workforce Services shall have published an appropriate notice in newspapers of general circulation in the state.

SECTION 269. Arkansas Code § 11–10–541 is amended to read as follows:

<< AR ST § 11–10–541 >>

11–10–541. Extended benefits — Overpayments.

The Director of the Department **Division** of Workforce Services shall establish and recover extended benefit overpayments in the manner prescribed in § 11–10–532.

SECTION 270. The introductory language of Arkansas Code § 11–10–543(a), concerning the failure to accept or seek suitable work and extended benefits, is amended to read as follows:

<< AR ST § 11–10–543 >>

(a) Notwithstanding the provisions of § 11–10–535, an individual shall be ineligible for payment of extended benefits for any week of unemployment in his or her eligibility period if the Director of the Department **Division** of Workforce Services finds that during that period:

SECTION 271. Arkansas Code § 11–10–543(i) and (j), concerning the failure to accept or seek suitable work and extended benefits, are amended to read as follows:

<< AR ST § 11–10–543 >>

(i) The Department **Division** of Workforce Services shall enforce this section.

(j) The director shall make quarterly reports to the Legislative Council on the department's **division's** efforts to enforce this section, including without limitation:

- (1) The number of cases of benefit recipients accused of not accepting valid job offers;
- (2) The disposition of cases reported under subdivision (j)(1) of this section; and
- (3) The policies and steps the department **division** is taking to eliminate and reduce refusals to accept valid job offers.

SECTION 272. Arkansas Code § 11–10–543(k), concerning electronic reporting and the failure to accept or seek suitable work and extended benefits, is amended to read as follows:

<< AR ST § 11–10–543 >>

(k)(1) The department **division** shall facilitate electronic reporting of a benefit recipient who refuses to take an offered job either through outright refusal, failing a drug test, or other means.

- (2) The department **division** may facilitate electronic reporting under subdivision (k)(1) of this section by an easy-to-understand and -use website created for the purpose or created for another purpose that facilitates easy reporting by potential employers and others.

SECTION 273. Arkansas Code § 11–10–543(l), concerning the failure to accept or seek suitable work and extended benefits, is amended to read as follows:

<< AR ST § 11–10–543 >>

(l)(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 (l)(1) of this section by electronic means that are economically feasible and may be a part of another communication to the employer.

SECTION 274. The introductory language of Arkansas Code § 11–10–544(a), concerning reciprocal arrangements with state and federal agencies, is amended to read as follows:

<< AR ST § 11–10–544 >>

(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 275. 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:

<< AR ST § 11–10–601 >>

(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 276. Arkansas Code § 11–10–604(a), concerning the criteria for approval to participate in a shared work plan, is amended to read as follows:

<< AR ST § 11–10–604 >>

(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 277. Arkansas Code § 11–10–605(a), concerning the approval or rejection of a shared work plan, is amended to read as follows:

<< AR ST § 11–10–605 >>

(a) The Director of the ~~Department~~ **Division** of Workforce Services shall approve or reject a plan in writing within thirty (30) days of its receipt.

SECTION 278. Arkansas Code § 11–10–606(a), concerning the effective date and duration of a shared work plan, is amended to read as follows:

<< AR ST § 11–10–606 >>

(a) A plan shall be effective on the date specified in the plan or on a date mutually agreed upon by the employer and the Director of the ~~Department~~ **Division** of Workforce Services but no earlier than the date of approval of the plan by the director.

SECTION 279. Arkansas Code § 11–10–607(a)(1), concerning the revocation of approval for a shared work plan, is amended to read as follows:

<< AR ST § 11–10–607 >>

(a)(1) The Director of the ~~Department~~ **Division** of Workforce Services may revoke approval of a plan for good cause.

SECTION 280. Arkansas Code § 11–10–608(a), concerning the modification of an approved shared work plan, is amended to read as follows:

<< AR ST § 11–10–608 >>

(a) An operational, approved, shared work plan may be modified by the employer with the acquiescence of employee representatives if the modification is not substantial and is in conformity with the plan approved by the Director of the ~~Department~~ **Division** of Workforce Services, but the modifications must be reported promptly to the director.

SECTION 281. The introductory language of Arkansas Code § 11–10–609(a), concerning the eligibility for compensation under a shared work plan, is amended to read as follows:

<< AR ST § 11–10–609 >>

(a) An individual is eligible to receive shared work unemployment compensation benefits with respect to any week only if, in addition to monetary entitlement, the Director of the ~~Department~~ **Division** of Workforce Services finds that:

SECTION 282. Arkansas Code § 11–10–610(d), concerning filing of claims for shared work unemployment compensation, is amended to read as follows:

<< AR ST § 11–10–610 >>

(d) Claims for shared work unemployment compensation benefits shall be filed in the same manner as claims for unemployment compensation or as prescribed in regulations by the Director of the ~~Department~~ **Division** of Workforce Services.

SECTION 283. Arkansas Code § 11–10–701(a)(2), concerning the accrual and payment by an employer of contributions, is amended to read as follows:

<< AR ST § 11–10–701 >>

(2) The contributions shall become due and be paid by each employer to the Director of the ~~Department~~ **Division** of Workforce Services for the Unemployment Compensation Fund in accordance with such regulations as the director may prescribe and shall not be deducted, in whole or in part, from the wages of individuals in employment for the employer.

SECTION 284. Arkansas Code § 11-10-703(a)(1)(A), concerning the maintenance of separate accounts, is amended to read as follows:

<< AR ST § 11-10-703 >>

(a)(1)(A) The Director of the ~~Department~~ **Division** of Workforce Services shall maintain a separate account for each employer and shall credit the employer's account with all the contributions paid on the employer's own behalf except as otherwise provided in §§ 11-10-701 — 11-10-715.

SECTION 285. Arkansas Code § 11-10-703(a)(6)(A), concerning the repayment of an overpayment to a claimant, is amended to read as follows:

<< AR ST § 11-10-703 >>

(A) An overpayment of benefits is the result of a failure by an employer or the employer's agent to respond timely or adequately to a request for information from the ~~Department~~ **Division** of Workforce Services; and

SECTION 286. Arkansas Code § 11-10-704(a), concerning the fixing of contribution rates, future rates, and experience rates, is amended to read as follows:

<< AR ST § 11-10-704 >>

(a) The Director of the ~~Department~~ **Division** of Workforce Services shall, for each calendar year, classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to regular benefits charged against their accounts, with a view to fixing the contribution rates as will reflect their experience.

SECTION 287. Arkansas Code § 11-10-705(c)(1)(B), concerning the annual notices provided to employers, is amended to read as follows:

<< AR ST § 11-10-705 >>

(B) The Director of the ~~Department~~ **Division** of Workforce Services shall provide to each eligible employer an annual notice of voluntary payment amounts that may be submitted to reduce the employer's contribution rate.

SECTION 288. Arkansas Code § 11-10-706(f), concerning future rates and the stabilization tax, is amended to read as follows:

<< AR ST § 11-10-706 >>

(f)(1)(A) However, the proceeds of the stabilization tax in the amount of two and one-half hundredths of one percent (0.025%) of taxable wages collected during the period July 1, 2007, through June 30, 2019, shall be deposited and credited to the ~~Department~~ **Division** of Workforce Services Training Trust Fund, there to be used for worker training.

(B) The total amount deposited into the ~~Department~~ **Division** of Workforce Services Training Trust Fund in any one (1) fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).

(2)(A) However, the proceeds of the stabilization tax in the amount of two and one-half hundredths of one percent (0.025%) of taxable wages collected during the period July 1, 2007, through June 30, 2019, shall be deposited and credited to the ~~Department~~ **Division** of Workforce Services Unemployment Insurance Administration Fund, there to be used for personal services and operating expenses of the unemployment insurance program necessary for the proper administration of the ~~Department~~ **Division** of Workforce Services Law, § 11–10–101 et seq., as determined by the Director of the ~~Department~~ **Division** of Workforce Services.

(B)(i) The total amount deposited into the ~~Department~~ **Division** of Workforce Services Unemployment Insurance Administration Fund in any one (1) fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).

(ii) If the amount deposited into the ~~Department~~ **Division** of Workforce Services Unemployment Insurance Administration Fund under subdivision (f)(2)(B)(i) of this section is not sufficient to meet the administrative needs under the ~~Department~~ **Division** of Workforce Services Law, § 11–10–101 et seq., the ~~Department~~ **Division** of Workforce Services may deposit up to an additional three million five hundred thousand dollars (\$3,500,000) in any one (1) fiscal year to the ~~Department~~ **Division** of Workforce Services Unemployment Insurance Administration Fund upon approval by the Chief Fiscal Officer of the State.

(3) The director shall report to the Legislative Council on a quarterly basis as to any and all uses of the ~~Department~~ **Division** of Workforce Services Training Trust Fund and the ~~Department~~ **Division** of Workforce Services Unemployment Insurance Administration Fund.

SECTION 289. Arkansas Code § 11–10–707(a)(2)(B), concerning the timing and manner of voluntary elections made by an employer, is amended to read as follows:

<< AR ST § 11–10–707 >>

(B) A voluntary election by an employer shall be made at the time and in the manner prescribed by regulations of the Director of the ~~Department~~ **Division** of Workforce Services.

SECTION 290. Arkansas Code § 11–10–708(b)(4), concerning advance interest tax and future rates, is amended to read as follows:

<< AR ST § 11–10–708 >>

(4) All withdrawals shall be upon voucher warrants issued, or caused to be issued, by the Director of the ~~Department~~ **Division** of Workforce Services as authorized by legislative appropriation and, except as otherwise provided herein, shall be used only for the purpose of:

(A) Paying interest incurred by the state on advances obtained from the federal Unemployment Trust Fund under Title XII of the Social Security Act;

(B) Making refunds of the aforementioned advance interest tax and interest and penalty payments attributed to the advance interest tax which were erroneously paid; and

(C) Returning moneys to the Unemployment Compensation Fund Clearing Account that may have been incorrectly identified and erroneously transferred to the Employment Security Advance Interest Trust Fund in the State Treasury.

SECTION 291. Arkansas Code § 11-10-708(c)(2), concerning advance interest tax and future rates, is repealed.

<< AR ST § 11-10-708 >>

~~(2) Notwithstanding any other provision of this section, all income from investment of the Employment Security Advance Interest Trust Fund earned during calendar years 1995 and 1996 shall be deposited and credited to the Department of Workforce Services Special Fund, § 19-5-984, as set out in § 11-10-716.~~

SECTION 292. Arkansas Code § 11-10-710(a)(2), concerning the transfer of experience, is amended to read as follows:

<< AR ST § 11-10-710 >>

(2) The separate account of the predecessor employer shall be transferred by the Director of the Department **Division** of Workforce Services to the successor employing unit and, as of the date of the acquisition, shall become the separate account or part of the separate account, as the case may be, of the successor employing unit, and the regular benefits thereafter chargeable to the predecessor employer on account of employment prior to the date of the acquisition shall be charged to the separate account of the successor employing unit.

SECTION 293. Arkansas Code § 11-10-711(a), concerning the temporary closing of a business because of an absence in the armed forces, is amended to read as follows:

<< AR ST § 11-10-711 >>

(a) Notwithstanding any inconsistent provisions of this chapter, if the Director of the Department **Division** of Workforce Services finds that an employer's business was closed solely because of the entrance of one (1) or more of the owners, officers, partners, or the majority stockholder into the armed forces of the United States or any of its allies, or of the United Nations after December 31, 1949, the employer's account shall, for experience rating purposes, not be considered as terminated. If the business is resumed by the employer within one (1) year after the discharge or release of the person from active duty in the armed forces, the employer's experience shall be deemed to have been continuous through the closed period.

SECTION 294. Arkansas Code § 11-10-712(a), concerning an employer ceasing to pay wages, is amended to read as follows:

<< AR ST § 11-10-712 >>

(a) Whenever an employer has paid no wages for a period of twelve (12) consecutive calendar quarters following the latest calendar quarter that the employer paid wages in employment, the Director of the Department **Division** of Workforce Services shall terminate the employer's experience rating account and shall destroy the records of the account.

SECTION 295. Arkansas Code § 11–10–713(c)(1), concerning the employees of nonprofit organizations and governmental entities, is amended to read as follows:

<< AR ST § 11–10–713 >>

(c)(1) Any nonprofit organization or government employing unit which, pursuant to § 11–10–210(a)(2) or (a)(3), is subject to this chapter shall pay contributions under § 11–10–701 unless it elects, in accordance with this subsection, to pay to the Director of the ~~Department~~ **Division** of Workforce Services for the Unemployment Compensation Fund an amount equal to the amount of regular benefits and, to the extent that the fund is not reimbursed for the extended benefits in accordance with Section 204 of the Federal–State Extended Unemployment Compensation Act of 1970, the extended benefits paid, based on wages paid by the employer to individuals for weeks of unemployment that begin during the effective period of the election.

SECTION 296. Arkansas Code § 11–10–713(d)(6)(A), concerning overpayments to employees of nonprofit organizations and governmental entities, is amended to read as follows:

<< AR ST § 11–10–713 >>

(A) An overpayment of benefits is the result of a failure by an employer or the employer's agent to respond timely or adequately to a request for information from the ~~Department~~ **Division** of Workforce Services; and

SECTION 297. Arkansas Code § 11–10–713(e)(1)(C), concerning payments in lieu of contributions, is amended to read as follows:

<< AR ST § 11–10–713 >>

(C) The ~~Department~~ **Division** of Workforce Services shall bill and the Chief Fiscal Officer of the State shall promptly reimburse the ~~department~~ **division** for such benefit payments in accordance with subsection (d) of this section; and

SECTION 298. Arkansas Code § 11–10–716(a)(1), concerning the collection of interest on past due contributions, is amended to read as follows:

<< AR ST § 11–10–716 >>

(a)(1) If contributions are not paid on the date on which they are due and payable as prescribed by the Director of the ~~Department~~ **Division** of Workforce Services, the whole or part thereafter remaining unpaid shall bear interest at the rate of one and one-half percent (1.5%) per month from and after the due date until payment is received by the director.

SECTION 299. Arkansas Code § 11–10–716(b)(1)(A), concerning the transfer of interest and penalty payments on past due contributions, is amended to read as follows:

<< AR ST § 11–10–716 >>

(b)(1)(A) At the end of each month, deposits in the Unemployment Compensation Fund Clearing Account which have been established as interest and penalty payments collected pursuant to §§ 11–10–716 — 11–10–723 shall be paid over

to the Treasurer of State and credited by him or her to the Department **Division** of Workforce Services Special Fund, § 19-5-984, created and established in the State Treasury.

SECTION 300. Arkansas Code § 11-10-716(b)(1)(B)(iii), concerning the allowable purposes for withdrawals, and the collection of interest on past due contributions, is amended to read as follows:

<< AR ST § 11-10-716 >>

(iii) Such other and additional purposes necessary to the proper administration of this chapter as specifically provided in the appropriation for the Department **Division** of Workforce Services.

SECTION 301. Arkansas Code § 11-10-717(a)(1)(A), concerning the collection, failure to pay or report, and penalties, is amended to read as follows:

<< AR ST § 11-10-717 >>

(a)(1)(A) If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due may be collected by civil action in the name of the Director of the Department **Division** of Workforce Services.

SECTION 302. Arkansas Code § 11-10-717(c)(1)(B), concerning the authority of the Department of Workforce Services to collect moneys owed, and the failure to pay or report, and penalties, is amended to read as follows:

<< AR ST § 11-10-717 >>

(B) The director is empowered to effect collection of unemployment contributions, penalties, interest, benefit overpayments, court costs, and reasonable attorney's fees due the Department **Division** of Workforce Services in any jurisdiction that extends such comity.

SECTION 303. Arkansas Code § 11-10-718(b)(1)(B), concerning collection and priorities under legal dissolutions or distributions, is amended to read as follows:

<< AR ST § 11-10-718 >>

(B)(i) The proceedings for enforcing the lien herein provided for shall be brought in the name of the Director of the Department **Division** of Workforce Services.

(ii) All liens issued under this chapter by the Director of the Department **Division** of Labor shall remain in full force and effect and shall be fully enforceable by the Director of the Department **Division** of Workforce Services.

SECTION 304. Arkansas Code § 11-10-718(b)(3), concerning the validity of liens, collection, and priorities under legal dissolutions or distributions, is amended to read as follows:

<< AR ST § 11-10-718 >>

(3) The lien shall not be valid against any mortgagee, pledgee, purchaser, or judgment creditor until the certificate of assessment provided for in § 11–10–720 has been filed with the clerk of the circuit court of the county wherein the employer domiciles or has a place of business, or suit has been filed by the Director of the ~~Department~~ **Division** of Workforce Services in a court of competent jurisdiction under § 11–10–717.

SECTION 305. Arkansas Code § 11–10–718(c), concerning the release of liens, collection, and priorities under legal dissolutions or distributions, is amended to read as follows:

<< AR ST § 11–10–718 >>

(c)(1) Upon written application by any person, the Director of the ~~Department~~ **Division** of Workforce Services or his or her designee may release from a lien any property or part of the property subject to the lien described in subdivision (b)(1) of this section, provided that:

(A) The Director of the ~~Department~~ **Division** of Workforce Services or his or her designee determines at any time that the interest of the ~~Department~~ **Division** of Workforce Services has no value; or

(B) The Director of the ~~Department~~ **Division** of Workforce Services or his or her designee determines that the lien is clouding the title of the property because of an error in the description of properties or similarity in names.

(2) In determining the value of the interest of the ~~department~~ **division** in the property to be released, the Director of the ~~Department~~ **Division** of Workforce Services or his or her designee shall give consideration to the value of the property and to the liens thereon having priority over the lien of the ~~department~~ **division**.

SECTION 306. Arkansas Code § 11–10–719(a) and (b), concerning collection and refunds, are amended to read as follows:

<< AR ST § 11–10–719 >>

(a)(1) If not later than three (3) years after the date of payment of any amount as a contribution, interest, or penalty pursuant to this chapter, any employer who has made such a payment makes application for an adjustment thereof in connection with a subsequent contribution, interest, or penalty payment, or for a refund because the adjustment cannot be made, and the Director of the ~~Department~~ **Division** of Workforce Services determines that payment of the contribution, interest, or penalty, or any portion thereof, was erroneous, the director may allow the employer to make an adjustment of the amount erroneously paid, without interest, in connection with subsequent contribution, interest, or penalty payments by the employer.

(2) If the adjustment cannot be made, the director may refund, without interest, from the Unemployment Compensation Fund or from the ~~Department~~ **Division** of Workforce Services Special Fund, as applicable, the amount erroneously paid.

(b) However, the director shall not allow any adjustment in connection with subsequent contributions for amounts of interest or penalty payments collected on or after July 1, 1965, nor shall he or she refund any payment from the Unemployment Compensation Fund or any account of the Unemployment Compensation Fund, except that he or she may refund any payment from the interest and penalties collected after that date which are in the clearing account pending transfer to the ~~Department~~ **Division** of Workforce Services Special Fund.

SECTION 307. Arkansas Code § 11–10–720(a)(1), concerning collection and a certificate of assessment, is amended to read as follows:

<< AR ST § 11–10–720 >>

(a)(1) If any person, firm, or corporation shall become delinquent in the payment of any contribution, interest, or penalties required to be paid by this chapter, it shall be the duty of the Director of the ~~Department~~ **Division** of Workforce Services, when the amount of the contribution, interest, and penalties is determined, either by the report of the employer or by such investigations as the director may have made, to assess the contributions, interest, and penalties so determined against the delinquent employer and to certify the amount of the contributions, interest, and penalties and mail or otherwise deliver a copy of the assessment to the delinquent employer.

SECTION 308. Arkansas Code § 11–10–720(a)(3), concerning the execution of a certificate of assessment, is amended to read as follows:

<< AR ST § 11–10–720 >>

(3) Execution shall be issuable, at the request of the director, his or her agent or attorney, or any other employee of the ~~Department~~ **Division** of Workforce Services, forthwith by the clerk of the circuit court, directed to the sheriff, who shall make a levy on any property, assets, or effects of the employer against whom the contribution is assessed.

SECTION 309. Arkansas Code § 11–10–721(b), concerning the collection and limitation of assessment, is amended to read as follows:

<< AR ST § 11–10–721 >>

(b) In the case of a false or fraudulent return with intent to evade tax or a failure to file reports required by this chapter or by the Director of the ~~Department~~ **Division** of Workforce Services pursuant to the provisions of this chapter, the tax may be assessed or a proceeding in court for the collection of the tax may be begun at any time.

SECTION 310. Arkansas Code § 11–10–722(a) and (b), concerning the collection and impoundment of deposits of an employer owing delinquent contributions, are amended to read as follows:

<< AR ST § 11–10–722 >>

(a) The Director of the ~~Department~~ **Division** of Workforce Services or his or her designated representative may give notice of impoundment of any deposits in any bank or savings and loan institution payable to the order of any employer owing any delinquent contributions, interest, and penalties to which a lien has attached under this chapter. Notice of impoundment shall be served by the director or his or her designated representative by certified mail to the bank or savings and loan institution or by written notice served personally upon its president, vice president, cashier, or assistant cashier.

(b) Any bank or savings and loan institution served with notice of impoundment shall be required to recognize the ~~Department~~ **Division** of Workforce Services' lien on any deposit subject thereto by withholding payment of any deposit in an amount not to exceed the amount of the delinquent contributions, interest, and penalty to the depositor or to his or her order for a period not to exceed sixty (60) days.

SECTION 311. Arkansas Code § 11–10–723(a)(2), concerning special rules regarding transfers of experience and assignment of rates, is amended to read as follows:

<< AR ST § 11–10–723 >>

(2) If following a transfer of experience under subdivision (a)(1) of this section or transfer of experience as otherwise provided in this chapter involving only a portion of a trade or business, the Director of the ~~Department~~ **Division** of Workforce Services determines that a substantial purpose of the transfer was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to such an account effective the first day of the calendar quarter following the date of transfer.

SECTION 312. Arkansas Code § 11–10–723(c)(1), concerning penalties for violations, and special rules regarding transfers of experience and assignment of rates, is amended to read as follows:

<< AR ST § 11–10–723 >>

(c)(1) Knowing violations or attempted violations of subsection (a) or (b) of this section or any other provision of this subchapter related to determining the assignment of a contribution rate shall result in an additional two-percent rate increase for the rate year during which the violation or attempted violation occurred and a two-percent additional rate increase in each of the following three (3) rate years. In addition to the rate increases, a penalty of ten percent (10%) of total taxes due shall also be assessed in each of these rate years. All penalty amounts shall be deposited and credited to the ~~Department~~ **Division** of Workforce Services Special Fund as set out in § 11–10–716. The additional tax and penalty required by this subsection shall not be credited to the separate account of any employer, nor shall any employer whose contribution rate has been affected by this subsection be eligible to make a voluntary payment pursuant to § 11–10–705(c).

SECTION 313. Arkansas Code § 11–10–801(a), concerning the establishment and control of the Unemployment Compensation Fund, is amended to read as follows:

<< AR ST § 11–10–801 >>

(a) There is established as a special fund, separate and apart from all public moneys or funds of this state, the Unemployment Compensation Fund, which shall be administered by the Director of the ~~Department~~ **Division** of Workforce Services exclusively for the purposes of this chapter.

SECTION 314. Arkansas Code § 11–10–802(a), concerning the accounts and deposits for the Unemployment Compensation Fund, is amended to read as follows:

<< AR ST § 11–10–802 >>

(a)(1) The Director of the ~~Department~~ **Division** of Workforce Services shall be ex officio treasurer and custodian of the Unemployment Compensation Fund and disbursing officer of the ~~Department~~ **Division** of Workforce Services.

(2) The director shall administer the Unemployment Compensation Fund and shall maintain within the Unemployment Compensation Fund three (3) separate accounts:

- (A) A clearing account;
- (B) An Unemployment Compensation Trust Fund Account; and
- (C) A benefit account.

SECTION 315. Arkansas Code § 11–10–803(a)(1), concerning withdrawals from the federal Unemployment Trust Fund, is amended to read as follows:

<< AR ST § 11–10–803 >>

(a)(1) Money requisitioned from this state's account in the federal Unemployment Trust Fund shall be used exclusively for the payment of benefits and for refunds from the Unemployment Trust Fund authorized by this chapter, except that money credited to this state's account pursuant to § 903 of the Social Security Act shall be used exclusively as provided in this section. The Director of the ~~Department~~ **Division** of Workforce Services shall, from time to time, requisition from the federal Unemployment Trust Fund such amounts not exceeding the amounts standing to this state's account therein as he or she deems necessary for the payment of benefits and refunds for a reasonable future period. Upon receipt thereof, the money shall be deposited in the benefit account.

SECTION 316. Arkansas Code § 11–10–804(b)(1), concerning the termination of the federal Unemployment Trust Fund, is amended to read as follows:

<< AR ST § 11–10–804 >>

(b)(1) If and when the federal Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, and securities belonging to the Unemployment Compensation Fund of this state shall be administered by the Director of the ~~Department~~ **Division** of Workforce Services as a trust fund for the purpose of paying benefits under this chapter.

SECTION 317. Arkansas Code § 11–10–901(a)(1), concerning the creation, administration, and authority of the Director of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 11–10–901 >>

(a)(1) The Director of the ~~Department~~ **Division** of Workforce Services is assigned responsibility for the administration of the State New Hire Registry.

SECTION 318. The introductory language of Arkansas Code § 11–10–902(b)(2), concerning reporting requirements, obligations, confidentiality, and enforcement of child support obligations, is amended to read as follows:

<< AR ST § 11–10–902 >>

(2) An employer shall report electronically or in any manner authorized by the ~~Department~~ **Division** of Workforce Services for inclusion in the State New Hire Registry whenever an employee:

SECTION 319. Arkansas Code § 11–10–902(c)(1), concerning reporting requirements, obligations, confidentiality, and enforcement of child support obligations and the New Hire Registry database, is amended to read as follows:

<< AR ST § 11–10–902 >>

(c)(1) Information reported pursuant to this section shall be entered into the State New Hire Registry database maintained by the ~~Department~~ **Division** of Workforce Services or its designated contractor within five (5) business days

of receipt from an employer. As used herein, “business day” means a day on which state offices are open for regular business.

SECTION 320. Arkansas Code § 11–10–902(c)(3), concerning reporting requirements, obligations, confidentiality, and enforcement of child support obligations and timely reporting to the National Directory of New Hires, is amended to read as follows:

<< AR ST § 11–10–902 >>

(3) Within three (3) business days after the date information regarding a newly hired employee is entered into the State New Hire Registry, the ~~Department~~ **Division** of Workforce Services or its designated contractor shall furnish the information to the National Directory of New Hires.

SECTION 321. Arkansas Code § 11–10–902(c)(5)(B), concerning reporting requirements, obligations, confidentiality, and enforcement of child support obligations, and the sharing of information with other state agencies, is amended to read as follows:

<< AR ST § 11–10–902 >>

(B) The ~~Department~~ **Division** of Workforce Services shall have access to information reported by employers pursuant to this section for purposes of administering the ~~Department~~ **Division** of Workforce Services' programs.

SECTION 322. Arkansas Code § 11–10–902(d)(1), concerning reporting requirements, obligations, confidentiality, and enforcement of child support obligations, and the sharing of information for enforcement, is amended to read as follows:

<< AR ST § 11–10–902 >>

(d)(1) The ~~Department~~ **Division** of Workforce Services shall directly or by contract conduct automated comparisons of the Social Security numbers reported by employers and the Social Security numbers appearing within records of the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration for cases being enforced under the Title IV–D State Plan.

SECTION 323. Arkansas Code § 11–10–1017(b)(2), concerning transfers of assessment payments and an unemployment obligation assessment, is amended to read as follows:

<< AR ST § 11–10–1017 >>

(2) At least once each month, deposits of the unemployment obligation assessment payment and any interest and penalty payments applicable to the unemployment obligation assessment shall be deposited into the ~~Department~~ **Division** of Workforce Services **Services'** Bond Financing Trust Fund.

SECTION 324. Arkansas Code § 11–10–1017(e), concerning an unemployment obligation assessment, and the authority of the Director of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 11–10–1017 >>

(e) The Director of the ~~Department~~ **Division** of Workforce Services shall promulgate rules to carry out the provisions of this section.

SECTION 325. Arkansas Code § 11–10–1018(a)(1), concerning the Department of Workforce Services' Bond Financing Trust Fund, is amended to read as follows:

<< AR ST § 11–10–1018 >>

(a)(1) There is established on the books of the ~~Department~~ **Division** of Workforce Services a special restricted fund to be known as the “Bond Financing Trust Fund”, to be maintained and administered by the ~~department~~ **division** under this subchapter for the purposes stated in this subchapter.

SECTION 326. Arkansas Code § 11–10–1018(c), concerning the Department of Workforce Services' Bond Financing Trust Fund, is amended to read as follows:

<< AR ST § 11–10–1018 >>

(c) The ~~department~~ **division** shall maintain the Bond Financing Trust Fund at the Arkansas Development Finance Authority or at one (1) or more financial institutions within or outside the state.

SECTION 327. Arkansas Code § 11–10–1018(e), concerning the Department of Workforce Services Bond Financing Trust Fund, is amended to read as follows:

<< AR ST § 11–10–1018 >>

(e)(1) All moneys received for, deposited into, or paid to the ~~department~~ **division** for deposit into the Bond Financing Trust Fund:

(A) Are specifically declared to be cash funds restricted in their use;

(B) Shall not be deposited into the State Treasury for the purposes of:

(i) Arkansas Constitution, Article 5, § 29;

(ii) Arkansas Constitution, Article 16, § 12;

(iii) Arkansas Constitution, Amendment 20; or

(iv) Any other constitutional provision or statutory law; and

(C) Shall be held and applied by the ~~department~~ **division** and the Arkansas Development Finance Authority as agent for the ~~department~~ **division** solely for the uses set forth in this subchapter.

(2) Interest and other moneys received from the investment of moneys in the Bond Financing Trust Fund are cash funds restricted in their use and shall not be deposited into the State Treasury but shall be held and applied by the ~~department~~ **division** and the Arkansas Development Finance Authority as agent for the ~~department~~ **division** solely for the uses set forth in this subchapter.

SECTION 328. Arkansas Code § 11–15–104 is amended to read as follows:

<< AR ST § 11-15-104 >>

11-15-104. Registry — Participating employers.

The ~~Department~~ **Division** of Workforce Services shall maintain a registry of private employers and local government employers in Arkansas that have a voluntary veterans' preference employment policy.

SECTION 329. Arkansas Code § 14-164-704(a)(2)(A)(iii), concerning the sale of property by the Arkansas Development Finance Authority or by a municipality or county, is amended to read as follows:

<< AR ST § 14-164-704 >>

(iii) Depreciation guidelines for personal property published by the Assessment Coordination ~~Department~~ **Division**.

SECTION 330. Arkansas Code § 15-3-104(a), concerning the members of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15-3-104 >>

(a) The ~~Executive Director of the Arkansas Economic Development Commission~~ **Secretary of the Department of Commerce** shall be advised by fourteen (14) directors, who together shall serve as the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission.

SECTION 331. Arkansas Code § 15-3-104(c), concerning the members of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15-3-104 >>

(c) The board shall consist of the Director of the ~~Department~~ **Division** of Higher Education or the Director of the ~~Department~~ **Division** of Higher Education's designee and thirteen (13) directors who shall be appointed by the Governor, subject to confirmation by the Senate, as follows:

- (1) Three (3) directors shall be engineers or scientists recognized for their scientific or technological research efforts;
- (2) Two (2) directors shall be appointed as representatives of academic institutions who have an extended extensive involvement in science and technology research;
- (3) Five (5) directors shall be representatives of the private sector of the state, who shall be persons with knowledge or experience in the fields of agriculture, forestry, finance, economic development, or science and technology; and
- (4) Three (3) directors shall be appointed as representatives of the private sector of the state, who shall be persons with knowledge or experience in the field of manufacturing.

SECTION 332. Arkansas Code § 15-3-105 is amended to read as follows:

<< AR ST § 15-3-105 >>

15–3–105. Organization.

(a) Directors of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission shall annually elect from their membership one (1) member as chair, one (1) member as vice chair, and one (1) member as secretary.

~~(b)(1) The Executive Director of the Arkansas Economic Development Commission may also employ such other officers and employees as he or she may deem necessary.~~

~~(2) Any such officer shall be eligible for selection to succeed himself or herself.~~

SECTION 333. Arkansas Code § 15–3–108(a)–(c), concerning the nature, powers, and duties of the Division of Science and Technology of the Arkansas Economic Development Commission, are amended to read as follows:

<< AR ST § 15–3–108 >>

(a) The Division of Science and Technology of the Arkansas Economic Development Commission shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated and additional powers as conferred upon it by the General Assembly, the Executive Director of the Arkansas Economic Development Commission, or the people of this state.

(b) The executive director, with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, is authorized and designated to engage in undertakings, programs, enterprises, and activities involving agriculture, manufacturing, medical and healthcare, transportation, public utility services, research and development, and other programs involving the establishment and encouragement of science and technological research.

(c) The executive director, the division, and its board, employees, and agents shall be immune from civil liability for performing the duties under this subchapter.

SECTION 334. The introductory language of Arkansas Code § 15–3–108(d), concerning the nature, powers, and duties of the Division of Science and Technology of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15–3–108 >>

(d) In the furtherance of the division's purposes, the executive director shall have all the powers necessary to carry out the division's purposes, which shall include, but not be limited to:

SECTION 335. Arkansas Code § 15–3–108(d)(11), concerning the nature, powers, and duties of the Division of Science and Technology of the Arkansas Economic Development Commission, is repealed.

<< AR ST § 15–3–108 >>

~~(11) Appoint officers, employees, consultants, agents, and advisors and prescribe their duties;~~

SECTION 336. The introductory language of Arkansas Code § 15–3–109(a), concerning the powers of the Executive Director of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15-3-109 >>

(a) In relation to the authorization under this subchapter to engage in undertakings, programs, enterprises, and activities involving research and development and other programs involving the establishment and encouragement of scientific and technological research, the ~~Executive~~ Director of the Arkansas Economic Development Commission shall have all the powers necessary to carry out programs which include, but are not limited to:

SECTION 337. Arkansas Code § 15-3-109(b), concerning the powers of the Executive Director of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15-3-109 >>

(b) In establishing and maintaining the programs authorized by this section, the ~~executive~~ director may utilize moneys as are lawfully available to the ~~executive~~ director for supporting the purposes of the Division of Science and Technology of the Arkansas Economic Development Commission.

SECTION 338. Arkansas Code § 15-3-110(a) and (b), concerning the power to promote basic and applied research at Arkansas colleges and universities, are amended to read as follows:

<< AR ST § 15-3-110 >>

(a) The ~~Executive~~ Director of the Arkansas Economic Development Commission may make such rules and regulations as he or she may deem appropriate to enable him or her to create and fund programs designed to promote basic research and applied research at Arkansas colleges and universities and to develop technology emerging from sources of innovation in this state, including, but not limited to, colleges and universities, federal laboratories, small businesses, and inventors.

(b)(1) In carrying out his or her functions under this section, the ~~executive director~~ **Director of the Arkansas Economic Development Commission** may create such advisory committees as may be useful in evaluating research and development proposals.

(2) The memberships of these advisory committees may include both directors and staff members of the Division of Science and Technology of the Arkansas Economic Development Commission and other persons drawn from sources other than the division, all of whom shall serve at the pleasure of the ~~executive director~~ **Director of the Arkansas Economic Development Commission**.

(3) Members of such advisory committees shall serve without compensation for their membership on such committees but may receive expense reimbursement in accordance with § 25-16-901 et seq.

SECTION 339. Arkansas Code § 15-3-110(d)(1)(B), concerning the power to promote basic and applied research at Arkansas colleges and universities, is amended to read as follows:

<< AR ST § 15-3-110 >>

(B) However, the contribution of the ~~executive director~~ **Director of the Arkansas Economic Development Commission** may defray up to sixty-six and two-thirds percent (66 2/3%) of the total cost of a proposed applied research project if the ~~executive director~~ **Director of the Arkansas Economic Development Commission**, with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development

Commission, finds that the participating private industry is principally located in Arkansas and employs fifty (50) or fewer persons.

SECTION 340. Arkansas Code § 15-3-110(d)(3), concerning the power to promote basic and applied research at Arkansas colleges and universities, is amended to read as follows:

<< AR ST § 15-3-110 >>

(3) The ~~executive director~~ **Director of the Arkansas Economic Development Commission** shall approve for funding only those proposed applied research projects for which the ~~executive director~~ **Director of the Arkansas Economic Development Commission** finds that enhanced employment opportunity within Arkansas will be a likely result.

SECTION 341. Arkansas Code § 15-3-110(e)(2)-(4), concerning the power to promote basic and applied research at Arkansas colleges and universities, are amended to read as follows:

<< AR ST § 15-3-110 >>

(2) The ~~executive director~~ **Director of the Arkansas Economic Development Commission** shall impose a reasonable, nonrefundable fee for the evaluation of the technological and economic potential of emerging technologies contained in proposals from nonpublic sources of innovation.

(3) The ~~executive director~~ **Director of the Arkansas Economic Development Commission** is authorized to incorporate a royalty provision not to exceed five percent (5%) of net sales revenue per year for a period of not more than ten (10) years as a condition of award.

(4) The ~~executive director~~ **Director of the Arkansas Economic Development Commission** shall approve for funding only those proposed technology development projects for which the ~~executive director~~ **Director of the Arkansas Economic Development Commission** finds that enhanced economic opportunity within Arkansas will be a likely result.

SECTION 342. Arkansas Code § 15-3-111 is amended to read as follows:

<< AR ST § 15-3-111 >>

15-3-111. Additional powers.

The ~~Executive~~ Director of the Arkansas Economic Development Commission shall have such additional powers and duties as may be hereafter delegated to or imposed upon him or her from time to time by the General Assembly.

SECTION 343. Arkansas Code § 15-3-112 is amended to read as follows:

<< AR ST § 15-3-112 >>

15-3-112. Prohibition on personal interest in contracts.

(a) No director, officer, or employee of the Division of Science and Technology of the Arkansas Economic Development Commission or of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, for purpose of personal gain, shall have or attempt to have, directly or indirectly, any interest

in any contract or agreement of the division in connection with the qualified investments or other programs of the division.

(b) The ~~Executive~~ Director of the Arkansas Economic Development Commission shall not invest, pursuant to § 15–3–122, in any qualified security of:

- (1) Any enterprise that is owned, wholly or partially, directly or indirectly, by any director or officer of the division; or
- (2) Any enterprise that employs a director of the division.

(c) It shall not be a violation of this section for the ~~executive director~~ **Director of the Arkansas Economic Development Commission** to permit any college, university, or other nonprofit institution with which a director is affiliated to participate in any program of the division, provided that the director shall promptly disclose the nature of the affiliation to the board.

(d)(1) It shall not be a violation of this section for the ~~executive director~~ **Director of the Arkansas Economic Development Commission** to permit a manufacturer or other for-profit entity with which a director is affiliated to pay to the division fees for services and receive, in return for those fees, services:

- (A) That are generally available to all manufacturers or other for-profit entities; and
- (B) That are not available to the manufacturer or other for-profit entity solely due to its affiliation with a director.

(2)(A) A director affiliated with a manufacturer or other for-profit entity that enters into a contract or an agreement pursuant to subdivision (d)(1) of this section shall disclose the contract or agreement in writing to the ~~executive director~~ **Director of the Arkansas Economic Development Commission**.

(B) The ~~executive director~~ **Director of the Arkansas Economic Development Commission** shall inform the board of the contract or agreement at its next regularly scheduled meeting and attach a copy of the written disclosure to the minutes of that meeting.

SECTION 344. Arkansas Code § 15–3–113(b) and (c), concerning the Division of Science and Technology of the Arkansas Economic Development Commission's cooperation with other agencies for studies, planning, and recommendations for industrial development, are amended to read as follows:

<< AR ST § 15–3–113 >>

(b) The ~~Executive~~ Director of the Arkansas Economic Development Commission shall recommend to the General Assembly proposed laws and regulations to support the growth and development of programs and research in the sciences and specialized areas of high technology.

(c) The ~~executive~~ director may provide leadership and assistance in cooperation with the Arkansas Public Service Commission, or any other federal, state, county, or municipal authority and to private industries in this state for the adoption and execution of any improvements, changes in methods of operation, rates of transportation, utilities, and zoning and building requirements and covenants which, in the opinion of the ~~executive~~ director, may be designed to improve or better operate the existing programs and research in the sciences and specific areas of high technology and related industrial development.

SECTION 345. Arkansas Code § 15–3–116(a), concerning the deposit of money and audits of the Division of Science and Technology of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15–3–116 >>

(a) All moneys coming into the hands of the Division of Science and Technology of the Arkansas Economic Development Commission shall be deposited into one (1) or more financial institutions selected by the Executive Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission and authorized to do business in this state.

SECTION 346. Arkansas Code § 15–3–116(c), concerning the deposit of money and audits of the Division of Science and Technology of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15–3–116 >>

(c) The executive director shall provide for an audit to be performed and accepted by a certified public accountant or firm within sixty (60) days following the conclusion of each fiscal year of the division and shall file copies thereof with the Legislative Joint Auditing Committee.

SECTION 347. Arkansas Code § 15–3–132(a)(2), concerning the criteria and designation of centers for applied technology, is amended to read as follows:

<< AR ST § 15–3–132 >>

(2) Establish, in consultation with the ~~Department~~ **Division** of Higher Education, criteria that must be satisfied for designation as a center, including, but not limited to:

- (A) An established record of research, development, and instruction in the area of technology;
- (B) The capacity to conduct research and development activities in collaboration with private enterprises;
- (C) The capacity to secure substantial private and other government funding for the proposed center;
- (D) The ability and willingness to cooperate with other colleges and universities in conducting research and development activities and in disseminating research results and to work with institutions of higher learning to enhance the quality of technological education in the area or areas of technology involved; and
- (E) The ability and willingness to cooperate with the division, the Arkansas Economic Development Council, and other economic development agencies in promoting the growth and development in Arkansas of enterprises based upon or benefiting from the areas of technology involved; and

SECTION 348. Arkansas Code § 15–3–133(b), concerning the advisory committees of centers for applied technology, is amended to read as follows:

<< AR ST § 15–3–133 >>

(b) The memberships of these advisory committees may include both directors and staff members of the division and other persons drawn from sources other than the division, all of whom shall serve at the pleasure of the Executive Director of the Arkansas Economic Development Commission.

SECTION 349. Arkansas Code § 15–3–203(b)(1), concerning the administration of the Arkansas Research Matching Fund, is amended to read as follows:

<< AR ST § 15–3–203 >>

(b)(1) Upon receipt of an application for matching funds to match federal funds from one (1) of the funding agencies identified in § 15–3–205, the commission, with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, shall determine the eligibility for matching funds based on a finding that the proposed research is in fields having long-term economic or commercial value to the state and which have been identified in the research and development plan approved by the Executive Director of the Arkansas Economic Development Commission.

SECTION 350. Arkansas Code § 15–3–204(b), concerning the disbursement of funds from Arkansas Research Matching Fund is amended to read as follows:

<< AR ST § 15–3–204 >>

(b) The Executive Director of the Arkansas Economic Development Commission, with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, may approve multi-year research grants, but disbursements of the matching funds authorized by this subchapter shall be for no more than a twelve-month period.

SECTION 351. Arkansas Code § 15–3–605(c)(4), concerning the application requirements for a business and technology accelerator grant, is amended to read as follows:

<< AR ST § 15–3–605 >>

(4) Provide advice to the Executive Director of the Arkansas Economic Development Commission concerning the applications for business and technology accelerator grants reviewed by the division.

SECTION 352. Arkansas Code § 15–3–606(a)(1)(A), concerning business and technology accelerator grant awards, is amended to read as follows:

<< AR ST § 15–3–606 >>

(A) Be awarded under this subchapter unless offered in writing by the Executive Director of the Arkansas Economic Development Commission; and

SECTION 353. Arkansas Code § 15–3–606(a)(2), concerning business and technology accelerator grant awards, is amended to read as follows:

<< AR ST § 15–3–606 >>

(2) Subject to funding and the discretion of the executive director, may be offered to an eligible applicant that successfully completes the application process.

SECTION 354. Arkansas Code § 15–3–706(c)(4), concerning the application requirements for matching grants, is amended to read as follows:

<< AR ST § 15–3–706 >>

(4) Provide advice to the ~~Executive~~ Director of the Arkansas Economic Development Commission concerning the applications for matching grants reviewed by the division.

SECTION 355. Arkansas Code § 15–3–707(a)(1)(A), concerning the matching of grants awarded by the Executive Director of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15–3–707 >>

(A) Be awarded under this subchapter unless offered in writing by the ~~Executive~~ Director of the Arkansas Economic Development Commission; and

SECTION 356. Arkansas Code § 15–4–104(a), concerning the bond guaranty programs for employee stock purchases, is amended to read as follows:

<< AR ST § 15–4–104 >>

(a) When an Arkansas-based employee stock ownership plan buys at least twenty percent (20%) of the stock of an Arkansas-based business entity formed under Arkansas law and the ~~Executive~~ Director of the Arkansas Economic Development Commission determines that had it not been for the purchase by the employee stock ownership plan that Arkansas jobs would have been lost, the Arkansas-based business entity shall be qualified for any bond guaranty programs administered by the Arkansas Economic Development Commission or the Arkansas Development Finance Authority.

SECTION 357. Arkansas Code § 15–4–203(a)(2), concerning the organization and meetings of the Arkansas Economic Development Council, is amended to read as follows:

<< AR ST § 15–4–203 >>

(2) The ~~Executive~~ Director of the Arkansas Economic Development Commission shall be ex officio Secretary of the Arkansas Economic Development Council but shall have no vote on matters coming before it.

SECTION 358. Arkansas Code § 15–4–204(a), concerning the functions, powers, and duties of the Arkansas Economic Development Council, is amended to read as follows:

<< AR ST § 15–4–204 >>

(a) The Arkansas Economic Development Council may serve in an advisory capacity to the ~~Executive~~ Director of the Arkansas Economic Development Commission, the Governor, and the General Assembly.

SECTION 359. Arkansas Code § 15–4–206 is amended to read as follows:

<< AR ST § 15-4-206 >>

15-4-206. Arkansas Economic Development Commission — Executive Director.

(a)(1) The ~~Executive~~ Director of the Arkansas Economic Development Commission shall be appointed by the Governor subject to confirmation by the Senate.

(2) The ~~executive~~ director shall serve at the pleasure of the Governor.

(3) The director shall report to the Secretary of the Department of Commerce.

(b) The ~~executive~~ director shall:

(1) Have the experience necessary to lead the Arkansas Economic Development Commission as determined by the ~~Governor~~ **Secretary of the Department of Commerce;**

(2) Be custodian of all property held in the name of the commission; and

(3) Be the ex officio disbursing agent of all funds available for the commission's use.

SECTION 360. Arkansas Code § 15-4-219(2), concerning the annual report of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15-4-219 >>

(2) The ~~Executive~~ Director of the Arkansas Economic Development Commission's assessment of the commission's performance, including without limitation a comparison to:

(A) The commission's performance over the past two (2) years;

(B) The commission's own projections; and

(C) Economic development in neighboring states.

SECTION 361. Arkansas Code § 15-4-305 is amended to read as follows:

<< AR ST § 15-4-305 >>

15-4-305. Administrator.

(a) The head of the Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission is the Administrator of the Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission.

(b) The administrator and shall be appointed by the Governor and shall serve at the pleasure of the Governor.

(c) The administrator shall report to the Secretary of the Department of Commerce.

SECTION 362. Arkansas Code § 15-4-307(c)(4), concerning the Minority and Women-owned Business Advisory Council, is amended to read as follows:

<< AR ST § 15-4-307 >>

(4) The ~~Executive~~ Director of the Arkansas Economic Development Commission shall appoint two (2) members of the council.

SECTION 363. The introductory language of Arkansas Code § 15-4-307(h)(3), concerning the Minority and Women-owned Business Advisory Council, is amended to read as follows:

<< AR ST § 15-4-307 >>

(3) Make annual reports to the ~~Governor~~ **Secretary of the Department of Commerce**, including without limitation:

SECTION 364. Arkansas Code § 15-4-706(a), concerning the execution and delivery on bonds by the Chair of the Arkansas Economic Development Council and the Executive Director of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15-4-706 >>

(a) The bonds shall be executed by the facsimile signature of the Chair of the Arkansas Economic Development Council and by the manual signature of the ~~Executive~~ Director of the Arkansas Economic Development Commission.

SECTION 365. Arkansas Code § 15-4-1602(1), concerning the definition of “annual payroll” under the Arkansas Economic Development Incentive Act of 1993, is amended to read as follows:

<< AR ST § 15-4-1602 >>

(1) “Annual payroll” means the wages of the net new full-time permanent employees based on the payroll for the previous twelve (12) months reported to the ~~Department~~ **Division** of Workforce Services and is computed by using the total of the net new full-time permanent employees' reported taxable earnings, including overtime pay;

SECTION 366. Arkansas Code § 15-4-1602(5), concerning the definition of “executive director” under the Arkansas Economic Development Incentive Act, is repealed.

<< AR ST § 15-4-1602 >>

(5) ~~“Executive director” means the Executive Director of the Arkansas Economic Development Commission;~~

SECTION 367. Arkansas Code § 15-4-1602(9), concerning the definition of “high unemployment” under the Arkansas Economic Development Incentive Act of 1993, is amended to read as follows:

<< AR ST § 15-4-1602 >>

(9)(A) “High unemployment” means an unemployment rate equal to or in excess of one hundred fifty percent (150%) of the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the ~~department~~ **Division of Workforce Services** when the state's annual average unemployment rate is six percent (6%) or below.

(B) When the state's annual average unemployment rate is above six percent (6%), "high unemployment" means equal to or in excess of three percent (3%) above the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the department **Division of Workforce Services**;

SECTION 368. Arkansas Code § 15-4-1604(2)(A), concerning the powers and duties of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15-4-1604 >>

(2)(A) In highly competitive situations, the Executive Director of the Arkansas Economic Development Commission is authorized to negotiate proposals on behalf of the state with prospective businesses which are considering locating a new facility or expanding an existing facility that would employ the requisite number of net new full-time permanent employees provided by § 15-4-1605.

SECTION 369. Arkansas Code § 15-4-1606(3)(A), concerning the limitations on all financial incentive plans negotiated by the Arkansas Economic Development Council, is amended to read as follows:

<< AR ST § 15-4-1606 >>

(3)(A) If the number of net new full-time permanent employees drops below the requisite number provided in § 15-4-1605, all benefits under the financial incentive plan entered into with the commission shall be terminated unless the Executive Director of the Arkansas Economic Development Commission and the Chief Fiscal Officer of the State approve a written request filed by the business explaining why the number of net new full-time permanent employees fell below the requisite number. The executive director and the Chief Fiscal Officer of the State may grant the business up to twenty-four (24) months to bring the number of net new full-time permanent employees back up to the requisite number and may approve the continuation of benefits during that period.

SECTION 370. Arkansas Code § 15-4-1606(4)(B)(ii), concerning the limitations on all financial incentive plans negotiated by the Arkansas Economic Development Council, is amended to read as follows:

<< AR ST § 15-4-1606 >>

(ii) A financial incentive plan may designate funds for employee training, infrastructure, or other purposes agreed to by the business and the executive director; and

SECTION 371. Arkansas Code § 15-4-1608(a), concerning verification by the Department of Finance and Administration of financial incentive plans with the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15-4-1608 >>

(a) The Department of Finance and Administration shall have the authority to obtain whatever information necessary from participating businesses and from the Department **Division** of Workforce Services to verify that businesses which have entered into financial incentive plans with the Arkansas Economic Development Commission are complying with

the terms of the financial incentive plans and reporting accurate information concerning the number of employees and their payrolls to the Department of Finance and Administration.

SECTION 372. Arkansas Code § 15–4–1702(1)(A), concerning the definition of “average hourly wage” under the Arkansas Enterprise Zone Act of 1993, is amended to read as follows:

<< AR ST § 15–4–1702 >>

(1)(A) “Average hourly wage” means the average wage of the net new full-time permanent employees based on payroll for the most recent quarter reported to the ~~Department~~ **Division** of Workforce Services.

SECTION 373. Arkansas Code § 15–4–1702(5), concerning the definition of “executive director” under the Arkansas Enterprise Zone Act of 1993, is repealed.

<< AR ST § 15–4–1702 >>

(5) ~~“Executive director” means the Executive Director of the Arkansas Economic Development Commission;~~

SECTION 374. Arkansas Code § 15–4–1702(15), concerning the definition of “project plan” under the Arkansas Enterprise Zone Act of 1993, is amended to read as follows:

<< AR ST § 15–4–1702 >>

(15) “Project plan” means the plan submitted to the commission containing such information as may be required by the ~~executive~~ director to determine eligibility for benefits;

SECTION 375. Arkansas Code § 15–4–1704(g)(2), concerning a refund of sales and use tax and a tax credit, is amended to read as follows:

<< AR ST § 15–4–1704 >>

(2) In the event that the requisite number of net new full-time permanent employees cannot be employed within the twenty-four-month period, the business can file a written application with the commission explaining why additional time is necessary. The business can be afforded up to twenty-four (24) more months to hire the requisite number of employees if the ~~Executive~~ Director of the Arkansas Economic Development Commission and the Chief Fiscal Officer of the State determine that the need for additional time is due to:

(A) Unanticipated and unavoidable delay in the construction of a facility that must be completed before the employees can be hired;

(B) The project as originally planned will require more than twenty-four (24) months to complete; or

(C) A change in the business ownership or business structure due to a merger or acquisition.

SECTION 376. Arkansas Code § 15–4–1709(a), concerning the exceptions to a designation as a high-unemployment county, is amended to read as follows:

<< AR ST § 15–4–1709 >>

(a) A county that does not qualify as a high-unemployment county, as defined in § 15–4–1702, but has experienced a sudden and severe period of economic distress caused by the closing of a business entity that results in the loss of a minimum of five hundred (500) full-time permanent jobs or a minimum of five percent (5%) of the employed labor force, as determined by the most recent “Labor Market Information” publication published by the ~~Department~~ **Division** of Workforce Services, may be designated as a high-unemployment county by the Arkansas Economic Development Council.

SECTION 377. Arkansas Code § 15–4–1902(1)(A), concerning the definition of “average hourly wage” under the Arkansas Economic Development Act of 1995, is amended to read as follows:

<< AR ST § 15–4–1902 >>

(1)(A) “Average hourly wage” means the average wage of the net new full-time permanent employees based on payroll for the most recent quarter reported to the ~~Department~~ **Division** of Workforce Services.

SECTION 378. Arkansas Code § 15–4–1902(6), concerning the definition of “executive director” under the Arkansas Economic Development Act of 1995, is repealed.

<< AR ST § 15–4–1902 >>

(6) “Executive director” means the ~~Executive Director of the Arkansas Economic Development Commission;~~

SECTION 379. Arkansas Code § 15–4–1903(2)(B)(iv), concerning the powers and duties of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15–4–1903 >>

(iv) If the project is located in a high unemployment area, the ~~Executive~~ Director of the Arkansas Economic Development Commission will consider all the factors of the project and negotiate with the business an income tax credit in an amount up to one hundred percent (100%) of the state income tax liability;

SECTION 380. Arkansas Code § 15–4–1906(b)(1)(2)(B), concerning the refund of sales and use taxes and income tax credits, is amended to read as follows:

<< AR ST § 15–4–1906 >>

(B) In the event that the requisite number of net new full-time permanent employees cannot be employed within the twenty-four-month period, the business can file a written application with the commission explaining why additional time is necessary. The business can be afforded up to twenty-four (24) more months to hire the requisite number of employees if the ~~Executive~~ Director of the Arkansas Economic Development Commission and the Chief Fiscal Officer of the State determine that the need for additional time is due to:

(i) Unanticipated and unavoidable delay in the construction of a facility that must be completed before the employees can be hired;

(ii) The project as originally planned will require more than twenty-four (24) months to complete; or

(iii) A change in the business ownership or business structure due to a merger or acquisition.

SECTION 381. Arkansas Code § 15–4–1907(a), concerning verification by the Department of Finance and Administration of financial incentive plans with the Arkansas Economic Development Commission is amended to read as follows:

<< AR ST § 15–4–1907 >>

(a) The Department of Finance and Administration shall have the authority to obtain whatever information necessary from the participating businesses and from the ~~Department~~ **Division** of Workforce Services to verify that businesses which have entered into financial incentive plans with the Arkansas Economic Development Commission are complying with the terms of the financial incentive plans and reporting accurate information concerning the number of employees and their payroll to the Department of Finance and Administration.

SECTION 382. Arkansas Code § 15–4–2004(b)(2), concerning the requirement for registration of a production company with the Film Office, is amended to read as follows:

<< AR ST § 15–4–2004 >>

(2) The ~~Executive~~ Director of the Arkansas Economic Development Commission may waive this requirement if he or she determines that the state should not be acknowledged.

SECTION 383. Arkansas Code § 15–4–2007(b)(2)(B)(ii), concerning the filing application for rebate with the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15–4–2007 >>

(ii) Term of the agreement, which shall be calculated from the date the agreement is signed by the production company and the ~~Executive~~ Director of the Arkansas Economic Development Commission;

SECTION 384. Arkansas Code § 15–4–2303(6), concerning the definition of “executive director” under the Arkansas Public Roads Improvements Credit Act, is repealed.

<< AR ST § 15–4–2303 >>

(6) “Executive director” means the ~~Executive Director of the Arkansas Economic Development Commission;~~

SECTION 385. Arkansas Code § 15–4–2303(10), concerning the definition of “project” under the Arkansas Public Roads Improvements Credit Act, is amended to read as follows:

<< AR ST § 15–4–2303 >>

(10) “Project” means all, any combination, or any part of the capital improvements for public roads which are authorized by a governing authority and approved by the ~~executive director~~ **Director of the Arkansas Economic Development Commission;**

SECTION 386. Arkansas Code § 15–4–2304 is amended to read as follows:

<< AR ST § 15–4–2304 >>

15–4–2304. Approval of projects.

Governing authorities may apply to the ~~Executive~~ Director of the Arkansas Economic Development Commission for funding assistance for capital improvement projects for public roads as provided by this subchapter. The ~~executive~~ director is authorized to approve capital improvements for funding assistance upon a finding that a project is in the public interest.

SECTION 387. Arkansas Code § 15–4–2305(b), concerning the Public Roads Incentive Fund, is amended to read as follows:

<< AR ST § 15–4–2305 >>

(b) The fund shall consist of contributions made by taxpayers for public roads projects approved by the ~~Executive~~ Director of the Arkansas Economic Development Commission and any other funds as are designated or deposited to the fund by law.

SECTION 388. Arkansas Code § 15–4–2305(c)(2), concerning the Public Roads Incentive Fund, is amended to read as follows:

<< AR ST § 15–4–2305 >>

(2) Any contributions which remain in the fund when a project is completed or terminated shall be held and applied to other public roads projects in such manner as the ~~executive~~ director shall direct.

SECTION 389. Arkansas Code § 15–4–2501(4), concerning the definition of “executive director” under the law regarding the Arkansas Economic Development Commission, is repealed.

<< AR ST § 15–4–2501 >>

(4) ~~“Executive director” means the Executive Director of the Arkansas Economic Development Commission;~~

SECTION 390. Arkansas Code § 15–4–2501(5)(A), concerning the definition of “high unemployment” under the law regarding the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15–4–2501 >>

(5)(A) “High unemployment” means an unemployment rate equal to or greater than one hundred fifty percent (150%) of the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the ~~Department~~ **Division** of Workforce Services, when the state's annual average unemployment is six percent (6%) or lower.

SECTION 391. Arkansas Code § 15–4–2703(7)(A), concerning the definition of “county or state average hourly wage” under the Consolidated Incentive Act of 2003, is amended to read as follows:

<< AR ST § 15-4-2703 >>

(7)(A) “County or state average hourly wage” means the weighted average weekly earnings for Arkansans in all industries, both statewide and countywide, as calculated by the ~~Department~~ **Division** of Workforce Services in its most recent “Annual Covered Employment and Earnings” publication, divided by forty (40).

SECTION 392. The introductory language of Arkansas Code § 15-4-2703(9)(I), concerning the definition of “eligible businesses” under the Consolidated Incentive Act of 2003, is amended to read as follows:

<< AR ST § 15-4-2703 >>

(I) The ~~Executive~~ Director of the Arkansas Economic Development Commission may classify a nonretail business as an eligible business if the following conditions exist:

SECTION 393. Arkansas Code § 15-4-2703(11), concerning the definition of “executive director” under the Consolidated Incentive Act of 2003, is repealed.

<< AR ST § 15-4-2703 >>

<< AR ST § 15-4-2703 >>

(11) “~~Executive director~~” means the ~~Executive Director of the Arkansas Economic Development Commission~~;

SECTION 394. Arkansas Code § 15-4-2703(12)(C), concerning the definition of “existing employees” under the Consolidated Incentive Act of 2003, is amended to read as follows:

<< AR ST § 15-4-2703 >>

(C) If the ~~Executive~~ Director of the Arkansas Economic Development Commission and the ~~Director~~ **Secretary** of the Department of Finance and Administration find that a significant impairment of Arkansas job opportunities for existing employees will otherwise occur, they may jointly authorize the counting of existing employees as new full-time permanent employees;

SECTION 395. Arkansas Code § 15-4-2703(17)(A)(ii)(b), concerning the definition of “in-house research” under the Consolidated Incentive Act of 2003, is amended to read as follows:

<< AR ST § 15-4-2703 >>

(b) A contractual agreement with a state college, state university, or other research organization to perform research for a targeted business if the ~~Executive~~ Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission makes a written determination before the research is performed that the research is essential to the core function of the targeted business.

SECTION 396. Arkansas Code § 15–4–2703(32)(A), concerning the definition of “project plan” under the Consolidated Incentive Act of 2003, is amended to read as follows:

<< AR ST § 15–4–2703 >>

(A) Submitted to the commission containing such information as may be required by the ~~Executive~~ Director of the Arkansas Economic Development Commission to determine eligibility for benefits; and

SECTION 397. Arkansas Code § 15–4–2703(41), concerning the definition of “strategic research” under the Consolidated Incentive Act of 2003, is amended to read as follows:

<< AR ST § 15–4–2703 >>

(41) “Strategic research” means research that has strategic economic or long-term commercial value to the state and that is identified in the research and development plan approved from time to time by the ~~Executive~~ Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission;

SECTION 398. Arkansas Code § 15–4–2704(e)(1), concerning the tier system of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15–4–2704 >>

(e)(1) A county that has experienced a sudden and severe period of economic distress caused by the closing of a business entity that results in the loss of a minimum of five percent (5%) of the employed labor force, as determined by the most recent Labor Market Information publication published by the ~~Department~~ **Division** of Workforce Services, may be moved up one (1) tier upon submitting a request to and being approved by the Arkansas Economic Development Council.

SECTION 399. Arkansas Code § 15–4–2705(d)(3), concerning a job-creation tax credit, is amended to read as follows:

<< AR ST § 15–4–2705 >>

(3) To qualify for a credit under this subsection, the proposed average hourly wage of a company applying for the benefit shall equal or be greater than the lowest county average hourly wage as calculated by the commission based on the most recent calendar year data published by the ~~Department~~ **Division** of Workforce Services.

SECTION 400. Arkansas Code § 15–4–2705(h)(1), concerning a job-creation tax credit, is amended to read as follows:

<< AR ST § 15–4–2705 >>

(h)(1) If a business fails to meet the payroll threshold within two (2) years after the signing of the financial incentive agreement or within the time period established by an extension approved by the ~~Director~~ **Secretary** of the Department of Finance and Administration and the ~~Executive~~ Director of the Arkansas Economic Development Commission, that business will be liable for repayment of all benefits previously received by the business.

SECTION 401. Arkansas Code § 15-4-2706(b)(1), concerning investment tax incentives, is amended to read as follows:

<< AR ST § 15-4-2706 >>

(b)(1) The award of this incentive shall be at the discretion of the ~~Executive~~ Director of the Arkansas Economic Development Commission.

SECTION 402. Arkansas Code § 15-4-2706(b)(4), concerning investment tax incentives, is amended to read as follows:

<< AR ST § 15-4-2706 >>

(4) Upon approval by the commission, the ~~Executive~~ Director of the Arkansas Economic Development Commission shall transmit an approved financial incentive agreement to the approved company and the Revenue Division of the Department of Finance and Administration.

SECTION 403. Arkansas Code § 15-4-2706(b)(7), concerning investment tax incentives, is amended to read as follows:

<< AR ST § 15-4-2706 >>

(7) Technology-based enterprises, as defined by § 14-164-203(12), may earn, at the discretion of the ~~Executive~~ Director of the Arkansas Economic Development Commission, an income tax credit or sales and use tax credit based on new investment, provided that the technology-based enterprise:

(A) Creates a new payroll of at least two hundred fifty thousand dollars (\$250,000); and

(B) Pays wages that are at least one hundred seventy-five percent (175%) of the state or county average hourly wage, whichever is less.

SECTION 404. Arkansas Code § 15-4-2706(c)(4)(A)-(D), concerning investment tax incentives, are amended to read as follows:

<< AR ST § 15-4-2706 >>

(4)(A) Upon determination by the ~~Executive~~ Director of the Arkansas Economic Development Commission that the project qualifies for credit under this subsection, the ~~Executive~~ Director of the Arkansas Economic Development Commission shall certify to the ~~Director~~ **Secretary** of the Department of Finance and Administration that the project qualifies and shall transmit with his or her certification the documents or copies of the documents upon which the certification was based.

(B) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide forms to the qualified business on which to claim the credit.

(C) At the end of the calendar year in which the application is made and at the end of each calendar year thereafter until the project is completed, the qualified business shall certify on the form provided by the ~~Director~~ **Secretary** of the Department of Finance and Administration the amount of expenditures on the project during the preceding calendar year.

(D) Upon receipt of the form certifying expenditures, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall determine the amount due as a credit for the preceding calendar year and issue a memorandum of credit to the qualified business.

SECTION 405. Arkansas Code § 15-4-2706(d)(2)(A)(i), concerning investment tax incentives, is amended to read as follows:

<< AR ST § 15-4-2706 >>

(2)(A)(i) A sales and use tax refund of state and local sales and use taxes, excepting the sales and use taxes dedicated to the Educational Adequacy Fund created in § 19-5-1227 and the Conservation Tax Fund as authorized by § 19-6-484, on the purchases of the material used in the construction of a building or buildings or any addition, modernization, or improvement thereon for housing any new or expanding qualified business and machinery and equipment to be located in or in connection with such a building shall be authorized by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 406. Arkansas Code § 15-4-2706(e)(3), concerning investment tax incentives, is amended to read as follows:

<< AR ST § 15-4-2706 >>

(3) After the ~~Executive~~ Director of the Arkansas Economic Development Commission has determined that the project is eligible for the sales and use tax refund, this determination accompanied by the financial incentive agreement and any other pertinent documentation shall be forwarded to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 407. Arkansas Code § 15-4-2706(e)(4)(A)(i), concerning investment tax incentives, is amended to read as follows:

<< AR ST § 15-4-2706 >>

(4)(A)(i) A sales and use tax refund of state and local sales and use taxes, excepting the sales and use taxes dedicated to the Educational Adequacy Fund as authorized by § 26-57-1002(d)(1)(A)(ii)(b) and the Conservation Tax Fund as authorized by § 19-6-484, on the purchases of the material used in the construction of a building or buildings or any addition, modernization, or improvement thereon for housing any new or expanding qualified business and machinery and equipment to be located in or in connection with such a building shall be authorized by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 408. Arkansas Code § 15-4-2707(d)(1), concerning the Economic Development Incentive Fund payroll rebate, is amended to read as follows:

<< AR ST § 15-4-2707 >>

(d)(1) The award of this incentive is at the discretion of the ~~Executive~~ Director of the Arkansas Economic Development Commission and may be offered for a period of up to ten (10) years.

SECTION 409. Arkansas Code § 15–4–2707(d)(3)(E), concerning the Economic Development Incentive Fund payroll rebate, is amended to read as follows:

<< AR ST § 15–4–2707 >>

(E) The executive director may authorize benefits to a prospective eligible business up to five percent (5%) of the payroll of new full-time permanent employees if the following conditions exist:

- (i) The prospective eligible business is considering a location in another state;
- (ii) The prospective eligible business receives at least seventy-five percent (75%) of its sales revenues from out of state; and
- (iii) The prospective eligible business is proposing to pay wages in excess of one hundred percent (100%) of the county average hourly wage of the county in which it locates.

SECTION 410. Arkansas Code § 15–4–2707(e)(1), concerning the Economic Development Incentive Fund payroll rebate, is amended to read as follows:

<< AR ST § 15–4–2707 >>

(e)(1) Technology-based enterprises, as defined in § 14–164–203(12), may earn, at the discretion of the executive director, a payroll rebate equal to five percent (5%) of the payroll for new full-time permanent employees for a period not to exceed ten (10) years.

SECTION 411. Arkansas Code § 15–4–2708(d)(1)(B), concerning the granting of tax credits for research and development, is amended to read as follows:

<< AR ST § 15–4–2708 >>

(B) Projects under the research and development programs of the Division of Science and Technology of the Arkansas Economic Development Commission when the projects directly involve an Arkansas business and are approved by the Executive Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission under rules promulgated by the division for those programs.

SECTION 412. Arkansas Code § 15–4–2708(e), concerning the granting of tax credits for research and development, is amended to read as follows:

<< AR ST § 15–4–2708 >>

(e) To claim the credit granted under subsections (b)–(d) of this section, the taxpayer shall file with his or her return, as an attachment to the form prescribed by the Director **Secretary** of the Department of Finance and Administration, copies of documentation to show that the Executive Director of the Arkansas Economic Development Commission has approved the research expenditure as a part of a qualified in-house research program or under the research and development programs of the division.

SECTION 413. Arkansas Code § 15-4-2709(c)(2)(A), concerning special incentives based on payroll of targeted businesses, is amended to read as follows:

<< AR ST § 15-4-2709 >>

(2)(A) The term of the financial incentive agreement shall be established by the ~~Executive~~ Director of the Arkansas Economic Development Commission for a period not to exceed five (5) years.

SECTION 414. Arkansas Code § 15-4-2709(c)(2)(C), concerning special incentives based on payroll of targeted businesses, is amended to read as follows:

<< AR ST § 15-4-2709 >>

(C) The ~~executive~~ director may allow a qualified targeted business to sell any income tax credits earned through one (1) or more incentives authorized by this subchapter.

SECTION 415. Arkansas Code § 15-4-2711(g)(2)(A), concerning the administration of a sales and use tax refund, is amended to read as follows:

<< AR ST § 15-4-2711 >>

(2)(A) If the ~~Executive~~ Director of the Arkansas Economic Development Commission and the ~~Director~~ **Secretary** of the Department of Finance and Administration find that the approved business has presented compelling reasons for an extension of time, the ~~Executive~~ Director of the Arkansas Economic Development Commission may grant an extension of time not to exceed forty-eight (48) months.

SECTION 416. Arkansas Code § 15-4-2711(i)(2), concerning the administration of a sales and use tax refund, is amended to read as follows:

<< AR ST § 15-4-2711 >>

(2) The ~~Executive~~ Director of the Arkansas Economic Development Commission and the ~~Director~~ **Secretary** of the Department of Finance and Administration may approve the request for extension of time, not to exceed twenty-four (24) months, for the business to bring the payroll back up to the requisite threshold amount and may approve the continuation of benefits during the period the extension is granted.

SECTION 417. Arkansas Code § 15-4-2711(l)(2)(B), concerning the administration of a sales and use tax refund, is amended to read as follows:

<< AR ST § 15-4-2711 >>

(B) If the ~~Executive~~ Director of the Arkansas Economic Development Commission finds that the business has presented compelling reasons for an extension of time, the ~~Executive~~ Director of the Arkansas Economic Development Commission may grant an extension of time not to exceed twenty-four (24) months.

SECTION 418. Arkansas Code § 15–4–3005(e)(2)(D), concerning the State of Arkansas general obligation economic development superprojects bonds, is amended to read as follows:

<< AR ST § 15–4–3005 >>

(D) A certification by the ~~Executive~~ Director of the Arkansas Economic Development Commission that each project to benefit from the expenditure of the proceeds of the bonds consists of an investment in the state of not less than four hundred million dollars (\$400,000,000) and the creation of no fewer than four hundred (400) new permanent full-time jobs; and

SECTION 419. Arkansas Code § 15–4–3202(4), concerning the definition of “Chief Fiscal Officer of the State” under the Arkansas Amendment 82 Implementation Act, is amended to read as follows:

<< AR ST § 15–4–3202 >>

(4) “Chief Fiscal Officer of the State” means the Chief Fiscal Officer of the State of Arkansas, who is also the ~~Director~~ **Secretary** of the Department of Finance and Administration;

SECTION 420. Arkansas Code § 15–4–3202(6), concerning the definition of “county average hourly wage” under the Arkansas Amendment 82 Implementation Act, is amended to read as follows:

<< AR ST § 15–4–3202 >>

(6) “County average hourly wage” means the weighted average weekly earnings for Arkansas residents in all industries countywide as calculated by the ~~Department~~ **Division** of Workforce Services in its most recent Annual Covered Employment and Earnings publication, divided by forty (40);

SECTION 421. Arkansas Code § 15–4–3202(25), concerning the definition of “state average hourly wage” under the Arkansas Amendment 82 Implementation Act, is amended to read as follows:

<< AR ST § 15–4–3202 >>

(25) “State average hourly wage” means the weighted average weekly earnings for Arkansas residents in all industries statewide as calculated by the ~~Department~~ **Division** of Workforce Services in its most recent Annual Covered Employment and Earnings publication, divided by forty (40).

SECTION 422. Arkansas Code § 15–4–3203(h)(2)(G), concerning Amendment 82 project qualifications, is amended to read as follows:

<< AR ST § 15–4–3203 >>

(G) A statement by the ~~Executive~~ Director of the Arkansas Economic Development Commission based on and outlining the:

- (i) Terms of the letter of the commitment;
- (ii) Estimated dollar amount of investment in the state from the proposed project; and

(iii) Estimated number of new jobs to be created by the proposed project;

SECTION 423. Arkansas Code § 15–4–3204 is amended to read as follows:

<< AR ST § 15–4–3204 >>

15–4–3204. Amendment 82 agreement.

As soon as practicable after the General Assembly's approval of the issuance of bonds and before the Arkansas Development Finance Authority issues bonds, the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Executive Director of the Arkansas Economic Development Commission, the President of the Arkansas Development Finance Authority, and the Chief Fiscal Officer of the State, all on behalf of the state, and the sponsor of the qualified Amendment 82 project shall execute the Amendment 82 agreement in substantially the same form as approved by the General Assembly.

SECTION 424. Arkansas Code § 15–4–3206(b)(2), concerning the compliance time period and audit requirements of Amendment 82, is amended to read as follows:

<< AR ST § 15–4–3206 >>

(2)(A) Upon receipt of a request to extend the applicable time period, the executive director **Director of the Arkansas Economic Development Commission** shall immediately notify the President of the Arkansas Development Finance Authority **Secretary of the Department of Commerce**, the Chief Fiscal Officer of the State, and the Governor.

(B) The executive director, the president **Secretary of the Department of Commerce**, and the Chief Fiscal Officer of the State may approve a request for a one-year extension upon a determination that there is a valid economic reason for granting the extension.

SECTION 425. Arkansas Code § 15–4–3303(b)(1), concerning eligibility for equity investment incentives, is amended to read as follows:

<< AR ST § 15–4–3303 >>

(b)(1) The award of the equity investment incentive tax credit to a qualified business under subsection (a) of this section shall be determined jointly at the discretion of the Executive Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission and the President of the Arkansas Development Finance Authority.

SECTION 426. Arkansas Code § 15–4–3304(b)(4), concerning an application for an equity investment incentive tax credit, is amended to read as follows:

<< AR ST § 15–4–3304 >>

(4) Other information requested jointly by the Executive Director of the Arkansas Economic Development Commission and the President of the Arkansas Development Finance Authority.

SECTION 427. Arkansas Code § 15–4–3501(c) and (d), concerning an increased tax refund for major maintenance and improvement projects, are amended to read as follows:

<< AR ST § 15–4–3501 >>

(c) The increased refund of sales and use taxes for major maintenance and improvement projects provided in this section is a discretionary incentive and is not available unless offered by the ~~Executive~~ Director of the Arkansas Economic Development Commission.

(d) The ~~Executive~~ Director of the Arkansas Economic Development Commission shall forward the taxpayer's application, financial incentive agreement, any other pertinent documentation, and a written copy of the determination under this subsection to the ~~Director~~ **Secretary** of the Department of Finance and Administration if the ~~Executive~~ Director of the Arkansas Economic Development Commission:

- (1) Determines that the taxpayer is eligible for the increased refund for major maintenance and improvement projects provided for in this section;
- (2) Determines that the taxpayer has provided reasonable proof that there will be a positive return on the taxpayer's investment in the major maintenance and improvement project that is sufficient to offset the taxes refunded under this section;
- (3) Determines that the taxpayer has provided a defined scope, beginning date, and ending date for the major maintenance and improvement project;
- (4) Determines that the refund is reasonably necessary for the taxpayer to remain competitive and preserve Arkansas jobs; and
- (5) Agrees to provide the incentive under this section.

SECTION 428. Arkansas Code § 15–4–3501(h), concerning an increased tax refund for major maintenance and improvement projects, is amended to read as follows:

<< AR ST § 15–4–3501 >>

(h) The ~~Executive~~ Director of the Arkansas Economic Development Commission and the ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules necessary to implement this section.

SECTION 429. Arkansas Code § 15–4–3704(b)(3)–(5), concerning the creation of the Arkansas Workforce Development Board, are amended to read as follows:

<< AR ST § 15–4–3704 >>

- (3) The Director of the ~~Department of Career Education~~ **Adult Education Section**;
- (4) The Director of the ~~Department~~ **Division** of Workforce Services;
- (5) The Director of Arkansas Rehabilitation Services ~~of the Department of Career Education~~ ;

SECTION 430. Arkansas Code § 15–4–3704(b)(7), concerning the creation of the Arkansas Workforce Development Board, is amended to read as follows:

<< AR ST § 15–4–3704 >>

(7) The ~~Executive~~ Director of the Arkansas Economic Development Commission;

SECTION 431. Arkansas Code § 15–4–3704(k)(2), concerning the creation of the Arkansas Workforce Development Board, is amended to read as follows:

<< AR ST § 15–4–3704 >>

(2) Staff support shall be provided by the ~~Department~~ **Division** of Workforce Services.

SECTION 432. Arkansas Code § 15–4–3705(b)(2)(D), concerning the committees of the Arkansas Workforce Development Board, is amended to read as follows:

<< AR ST § 15–4–3705 >>

(D) The Director of the ~~Department~~ **Division** of Workforce Services; and

SECTION 433. The introductory language of Arkansas Code § 15–4–3706, concerning the powers and duties of the Arkansas Workforce Development Board, is amended to read as follows:

<< AR ST § 15–4–3706 >>

The Arkansas Workforce Development Board shall assist the Governor **and the Secretary of the Department of Commerce** in:

SECTION 434. Arkansas Code § 15–4–3707(b), concerning the requirements for the unified state workforce development plan, is amended to read as follows:

<< AR ST § 15–4–3707 >>

(b) The state plan shall be a unified plan addressing services available through all core programs and developed jointly by the ~~Department~~ **Division** of Workforce Services, **the Adult Education Section**, Arkansas Rehabilitation Services, and the Division of State Services for the Blind of the ~~Department of Human Services~~, in coordination with the Arkansas Workforce Development Board.

SECTION 435. Arkansas Code § 15–4–3707(c)(2)(E), concerning the requirements for the unified state workforce development plan, is amended to read as follows:

<< AR ST § 15–4–3707 >>

(E) How the ~~Department of Career Education~~ **Adult Education Section** will, if applicable, align content standards for adult education with state-adopted challenging academic content standards, as adopted under § 1111(b)(1) of the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6311(b)(1);

SECTION 436. Arkansas Code § 15-5-202(a)(1), concerning the board of directors and members of the Arkansas Development Finance Authority, is amended to read as follows:

<< AR ST § 15-5-202 >>

(a)(1) The Board of Directors of the Arkansas Development Finance Authority shall consist of the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her designee, who shall serve during the ~~director's~~ **Secretary of the Department of Finance and Administration's** absence, and eleven (11) public members to be appointed by the Governor with the advice and consent of the Senate, **and the Secretary of the Department of Commerce who shall serve as a nonvoting member.**

SECTION 437. Arkansas Code § 15-5-203(b) and (c), concerning the board officers and employees of the Arkansas Development Finance Authority, are amended to read as follows:

<< AR ST § 15-5-203 >>

(b) *The board shall also employ a president who shall serve at the will of the Governor.*

(c) The board shall **in consultation with the secretary** appoint and employ such additional officers, accountants, financial advisors or experts, bond counsel, or other attorneys, agents, and employees as it may require and shall determine their qualifications, duties, and compensation. Periodically, the Arkansas Development Finance Authority will review selection of bond counsel or other attorneys to ensure that legal representatives are selected in a manner that will provide the authority with competent, economical legal representation that furthers the best interest of the authority.

SECTION 438. Arkansas Code § 15-5-207(b)(7), concerning the rights, powers, privileges, and duties of the Arkansas Development Finance Authority, is repealed.

<< AR ST § 15-5-207 >>

~~(7) To appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their compensation;~~

SECTION 439. Arkansas Code § 15-5-210(a), concerning the annual report by the Arkansas Development Finance Authority, is amended to read as follows:

<< AR ST § 15-5-210 >>

(a) On or before January 31 of each year, the Arkansas Development Finance Authority shall make an annual report of its activities for the preceding fiscal year to the ~~Governor~~ **Secretary of the Department of Commerce** and to the General Assembly.

SECTION 440. Arkansas Code § 15-5-212(a), concerning approval by the Legislative Council for certain hires or selections by the Arkansas Development Finance Authority, is amended to read as follows:

<< AR ST § 15-5-212 >>

(a) The Arkansas Development Finance Authority **or the Secretary of the Department of Commerce on behalf of the Arkansas Development Finance Authority** shall not employ or select any investment banker, consultant, professional financial advisor, or attorney unless the selection criteria to be used in the selection have been submitted to the Legislative Council for review.

SECTION 441. Arkansas Code § 15–5–214(b), concerning a criminal background check by the Arkansas Development Finance Authority, is amended to read as follows:

<< AR ST § 15–5–214 >>

(b) The criminal background check shall be performed through the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police and the Federal Bureau of Investigation.

SECTION 442. Arkansas Code § 15–5–1603(8), concerning the definition of “Venture Capital Investment Trust” under the Arkansas Risk Capital Matching Fund Act of 2007, is amended to read as follows:

<< AR ST § 15–5–1603 >>

(8) “Venture Capital Investment Trust” means the public trust formed July 21, 2003, under § 28–72–201 et seq., the trustees of which are the President of the Arkansas Development Finance Authority, the ~~Executive~~ Director of the Arkansas Economic Development Commission, and the ~~Director~~ **Secretary** of the Department of Finance and Administration, and that has as a principal purpose increasing the availability of equity capital and near-equity capital for emerging and expanding enterprises in the State of Arkansas.

SECTION 443. Arkansas Code § 15–5–1707(b)(4), concerning the roles and responsibilities of the Arkansas Housing Trust Fund Advisory Committee, is amended to read as follows:

<< AR ST § 15–5–1707 >>

(4) Prepare, working with the staff of the authority **or the Department of Commerce**, an annual review of the rules, compliance responsibilities, set-asides, funding priorities, and funding decisions, including any recommended changes, which review shall be presented to the board for final approval; and

SECTION 444. Arkansas Code § 15–6–104(e), concerning the creation of the Arkansas Rural Development Commission, is amended to read as follows:

<< AR ST § 15–6–104 >>

(e) The Arkansas Rural Development Commission shall advise and assist the ~~Executive~~ Director of the Arkansas Economic Development Commission in the performance of his or her duties under this subchapter.

SECTION 445. Arkansas Code § 15–6–105 is amended to read as follows:

<< AR ST § 15–6–105 >>

15–6–105. Rural Services Division of the Arkansas Economic Development Commission.

(a) There is created the Rural Services Division of the Arkansas Economic Development Commission.

- (b) The head of the division shall be the ~~Executive~~ Director of the Arkansas Economic Development Commission.
- (c) ~~The division shall employ necessary staff to carry out the duties and functions of the division as otherwise provided in this chapter or as otherwise provided by law.~~
- (~~d~~) The Governor shall direct that all state agencies provide the ~~executive~~ director with assistance in advancing the purpose of the division to assure that the activities of the division are fully coordinated with the activities of state agencies providing related services.

SECTION 446. Arkansas Code § 15–6–106(a) and (b), concerning the functions, powers, and duties of the Executive Director of the Arkansas Economic Development Commission, are amended to read as follows:

<< AR ST § 15–6–106 >>

- (a) The ~~Executive~~ Director of the Arkansas Economic Development Commission by and through the Rural Services Division of the Arkansas Economic Development Commission shall have the following functions, powers, and duties:
- (1) To serve as a clearinghouse and provide comprehensive information relating to rural development and revitalization upon request to any agency, individual, or corporation;
 - (2) To advise and assist agencies, individuals, and corporations in answering particular rural revitalization and development needs, including cooperative efforts among such agencies, individuals, and corporations to solve common problems or provide services in these areas;
 - (3)(A) To receive notification from all state and federal agencies, individuals, or corporations engaged in rural development and revitalization of program descriptions, appropriation data, and application procedures.
 - (B) The division shall maintain a listing of existing programs and advise local agencies, individuals, or corporations of their existence;
 - (4) To assist, upon request, applicant local agencies, individuals, or corporations located in rural areas in obtaining timely and efficient responses from state and federal agencies, to assist such applicants in consideration of alternative program grant strategies, to assist state and federal agencies in cooperative approaches to address the needs of such applicants, and to provide technical assistance to agencies in formulating and implementing rural development and revitalization programs;
 - (5) To assist the ~~Governor~~ **Secretary of the Department of Commerce** and the General Assembly in the integration and formulation of state rural development and revitalization policy and long-range plans for rural areas and in answering needs related thereto;
 - (6) To analyze and make recommendations concerning proposed new state legislation or programs that may affect rural areas;
 - (7) To apply for and receive grants or financial assistance from the federal government or other agencies, individuals, or corporations;
 - (8) To assist the ~~Governor~~ **secretary** in coordinating the activities and services of those departments and agencies of the state having relationships with local rural agencies, individuals, and corporations in order to provide more effective service to them and to simplify state procedures relating thereto;

(9) To keep the ~~Governor~~ **secretary** informed about the problems and needs of agencies, individuals, and corporations that are involved with rural development and revitalization and to assist in formulating policies with respect thereto and utilizing the resources of state government for the benefit of rural areas;

(10) To promote and encourage the establishment of a nonprofit foundation, a Center for Rural Arkansas, and to cooperate and coordinate with and assist the center in accessing state and federal government and private nonprofit and corporate foundation grant funds to aid in rural development and revitalization for rural Arkansas; and

(11) To administer the conservation education programs established under § 6–16–1101 for the benefit of all school districts and conservation districts in the state, regardless of population.

(b) The ~~executive~~ director may prescribe and issue, pursuant to the Arkansas Administrative Procedure Act, § 25–15–201 et seq., such reasonable rules as may be necessary to carry out the provisions of this chapter.

SECTION 447. Arkansas Code § 15–6–107(a), concerning assistance programs and grants for the Rural Services Division of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15–6–107 >>

(a) The Rural Services Division of the Arkansas Economic Development Commission shall request such specific information as the ~~Executive~~ Director of the Arkansas Economic Development Commission determines to be necessary concerning assistance programs and grants administered by federal, state, and local agencies, individuals, and corporations designed to enhance rural areas. The information shall be used to advise local agencies, individuals, or corporations for the purpose of promoting coordination in program or grant efforts wherever feasible or proper.

SECTION 448. The introductory language of Arkansas Code § 15–6–107(c), concerning assistance programs and grants for the Rural Services Division of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 15–6–107 >>

(c) The division, so far as possible, shall render such assistance, and the ~~executive~~ director may designate an officer or employee of the division to act as an expediter for the purpose of:

SECTION 449. Arkansas Code § 15–11–503(1) and (2), concerning the definitions of “agreement” and “approved company” under the Arkansas Tourism Development Act, are amended to read as follows:

<< AR ST § 15–11–503 >>

(1) “Agreement” means an agreement entered into pursuant to § 15–11–506 by and between the ~~Executive~~ Director of the Arkansas Economic Development Commission and an approved company with respect to a tourism attraction project;

(2) “Approved company” means any eligible (2) company that is seeking to undertake a tourism attraction project and is approved by the ~~executive~~ director pursuant to §§ 15–11–505 and 15–11–506;

SECTION 450. Arkansas Code § 15–11–503(4), concerning the definition of “eligible company” under the Arkansas Tourism Development Act, is amended to read as follows:

<< AR ST § 15–11–503 >>

(4) “Eligible company” means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity that invests a minimum of five hundred thousand dollars (\$500,000) in a high-unemployment county or one million dollars (\$1,000,000) in any other county for the purpose of constructing, operating, or intending to operate a tourism attraction project, whether owned or leased, within the state that meets the standards promulgated by the executive director pursuant to § 15–11–504;

SECTION 451. Arkansas Code § 15–11–503(5), concerning the definition of “executive director” under the Arkansas Tourism Development Act, is repealed.

<< AR ST § 15–11–503 >>

~~(5) “Executive director” means the Executive Director of the Arkansas Economic Development Commission or the executive director’s designated representative;~~

SECTION 452. Arkansas Code § 15–11–503(7), concerning the definition of “high unemployment” under the Arkansas Tourism Development Act, is amended to read as follows:

<< AR ST § 15–11–503 >>

(7)(A) “High unemployment” means an unemployment rate equal to or in excess of one hundred fifty percent (150%) of the state’s average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the ~~Department~~ **Division** of Workforce Services when the state’s annual average unemployment rate is six percent (6%) or below.

(B) When the state’s annual average unemployment rate is above six percent (6%), “high unemployment” means equal to or in excess of three percent (3%) above the state’s average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the ~~Department of Workforce Services~~ **division**;

SECTION 453. Arkansas Code § 15–11–504(a) and (b), concerning the evaluation standards of applications for tourism attraction projects, are amended to read as follows:

<< AR ST § 15–11–504 >>

(a) The ~~Executive~~ Director of the Arkansas Economic Development Commission shall establish standards for the making of applications for inducements to eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with the Arkansas Administrative Procedure Act, § 25–15–201 et seq.

(b) With respect to each eligible company making an application to the ~~executive~~ director for inducements and with respect to the tourism attraction project described in the application, the ~~executive~~ director shall make inquiries and request materials of the applicant that shall include, but shall not be limited to:

(1) Marketing plans for the tourism attraction project that target individuals who are not residents of the state;

- (2) A description and location of the tourism attraction project;
- (3) Capital and other anticipated expenditures for the tourism attraction project that indicate that the total cost of the tourism attraction project shall exceed five hundred thousand dollars (\$500,000) in a high-unemployment county and one million dollars (\$1,000,000) in all other counties and the anticipated sources of funding for the tourism attraction project;
- (4) The anticipated employment and wages to be paid at the tourism attraction project;
- (5) Business plans which indicate the average number of days in a year in which the tourism attraction project will be in operation and open to the public; and
- (6) The anticipated revenues and expenses generated by the tourism attraction project.

SECTION 454. Arkansas Code § 15–11–505 is amended to read as follows:

<< AR ST § 15–11–505 >>

15–11–505. Standards for preliminary and final approval of companies and projects.

- (a) The ~~Executive~~ Director of the Arkansas Economic Development Commission shall establish standards for final approval of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with the Arkansas Administrative Procedure Act, § 25–15–201 et seq.
- (b) The ~~Executive~~ Director of the Arkansas Economic Development Commission shall obtain the review and advice of the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism prior to designating an entity as an approved company eligible for the tourism incentive.
- (c) The ~~Executive~~ Director of the Arkansas Economic Development Commission may give approval by designating an eligible company as an approved company and authorizing the undertaking of the tourism attraction project.
- (d) The ~~Executive~~ Director of the Arkansas Economic Development Commission shall review the information that has been made available to the ~~Executive~~ Director of the Arkansas Economic Development Commission in order to determine whether the tourism attraction project will further the purposes of this subchapter.
- (e) The criteria for final approval of eligible companies and tourism attraction projects shall include, but shall not be limited to, the criteria set forth in § 15–11–504(c).
- (f) After a review of the relevant materials, other information made available to the ~~Executive~~ Director of the Arkansas Economic Development Commission, the completion of other inquiries, and the review and advice of the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism, the ~~Executive~~ Director of the Arkansas Economic Development Commission may give final approval to the eligible company's application for a tourism attraction project and may grant the approval to the eligible company in the form of a financial incentive agreement.

SECTION 455. Arkansas Code § 15–11–506(a), concerning contracts with the Arkansas Economic Development Commission for tourism attraction projects, is amended to read as follows:

<< AR ST § 15–11–506 >>

(a) Upon granting final approval, the ~~Executive Director~~ of the Arkansas Economic Development Commission may enter into an agreement with an approved company with respect to its tourism attraction project.

SECTION 456. Arkansas Code § 15–11–506(b)(1), concerning contracts with the Arkansas Economic Development Commission for tourism attraction projects, is amended to read as follows:

<< AR ST § 15–11–506 >>

(1) The amount of approved costs, which shall be determined by negotiations between the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** and the approved company;

SECTION 457. Arkansas Code § 15–11–506(b)(2)(B), concerning contracts with the Arkansas Economic Development Commission for tourism attraction projects, is amended to read as follows:

<< AR ST § 15–11–506 >>

(B) Within three (3) months of the completion date, the approved company shall document the actual cost of the tourism attraction project through a certification of such costs by an independent certified public accountant acceptable to the ~~Executive Director of the Arkansas Economic Development Commission~~ **director**; and

SECTION 458. Arkansas Code § 15–11–506(b)(3)(A)(ii), concerning contracts with the Arkansas Economic Development Commission for tourism attraction projects, is amended to read as follows:

<< AR ST § 15–11–506 >>

(ii) However, the term of the agreement may be extended for up to two (2) additional years by the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** with the advice and consent of the ~~Director~~ **Secretary** of the Department of Finance and Administration, if the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** determines that:

(a) The failure to complete the tourism attraction project within two (2) years resulted from unanticipated and unavoidable delay in the construction of the tourism attraction project;

(b) The tourism attraction project as originally planned will require more than two (2) years to complete; or

(c) The failure to complete the tourism attraction project within two (2) years resulted from a merger, acquisition, or other change in business ownership or business structure;

SECTION 459. Arkansas Code § 15–11–506(b)(3)(C), concerning contracts with the Arkansas Economic Development Commission for tourism attraction projects, is amended to read as follows:

<< AR ST § 15–11–506 >>

(C) Within forty-five (45) days after the end of each calendar year, the approved company shall supply the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** with such reports and certifications as the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** may request, demonstrating to

the satisfaction of the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** that the approved company is in compliance with the provisions of this subchapter; and

SECTION 460. Arkansas Code § 15–11–506(c) –(e), concerning contracts for tourism attraction projects, are amended to read as follows:

<< AR ST § 15–11–506 >>

(c) The agreement shall not be transferable or assignable by the approved company without the written consent of the ~~Executive Director of the Arkansas Economic Development Commission~~.

(d) If the approved company utilizes sales tax credits which are subsequently disallowed, then the approved company will be liable for the payment to the ~~Director~~ **Secretary** of the Department of Finance and Administration of all taxes resulting from the disallowance of the credits, plus applicable penalties and interest.

(e) The ~~Executive Director of the Arkansas Economic Development Commission~~ **director** shall provide a copy of each agreement entered into with an approved company to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 461. Arkansas Code § 15–11–507(a) and (b), concerning tourism attraction project sales tax credits, are amended to read as follows:

<< AR ST § 15–11–507 >>

(a) Upon receiving notification from the ~~Executive Director of the Arkansas Economic Development Commission~~ that an approved company has entered into a tourism attraction project agreement and is entitled to the sales tax credits provided by this subchapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide the approved company with such forms and instructions as are necessary to claim those credits.

(b)(1)(A)(i)(a) An approved company shall be entitled to a credit if the approved company certifies to the ~~Director~~ **Secretary** of the Department of Finance and Administration that it has expended at least five hundred thousand dollars (\$500,000) in a high-unemployment county and one million dollars (\$1,000,000) in all other counties in approved costs and the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** certifies that the approved company is in compliance with this subchapter.

(b)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall then issue a sales tax credit memorandum to the approved company equal to fifteen percent (15%) of the approved costs.

(2) However, in high-unemployment counties the ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a credit memorandum to the approved company equal to twenty-five percent (25%) of the approved costs.

(c) The sales tax credit memorandum shall not include an offset of the tourism tax levied under § 26–63–401 et seq.

(ii) Subsequent requests for credit for additional certified approved costs shall be filed with the Department of Finance and Administration during the term of the agreement.

(B)(i) The ~~Director~~ **Secretary** of the Department of Finance and Administration may require proof of expenditures.

(ii) Additional credit memoranda may be issued as the approved company certifies additional expenditures of approved costs.

(2)(A) No sales tax credit memorandum shall be issued for any approved costs expended after the expiration of two (2) years from the date the agreement was signed by the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** and the approved company.

(B) However, the ~~Executive Director of the Arkansas Economic Development Commission~~ **director**, with the advice and consent of the ~~Director~~ **Secretary** of the Department of Finance and Administration, may authorize sales tax credits for approved costs expended up to four (4) years from the date the agreement was signed if the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** determines that the failure to complete the tourism attraction project within two (2) years resulted from:

- (i) Unanticipated and unavoidable delay in the construction of the tourism attraction project;
- (ii) The tourism attraction project, as originally planned, will require more than two (2) years to complete; or
- (iii) A change in business ownership or business structure resulting from a merger or acquisition.

SECTION 462. Arkansas Code § 15-11-507(e)-(g), concerning tourism attraction project sales tax credits, are amended to read as follows:

<< AR ST § 15-11-507 >>

(e) By April 1 of each year, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall certify to the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** the state sales tax liability of the approved companies receiving inducements under this section and the amount of state sales tax credits taken during the preceding calendar year.

(f)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate administrative regulations as are necessary for the proper administration of this subchapter.

(2) The ~~Director~~ **Secretary** of the Department of Finance and Administration may also develop such forms and instructions as are necessary for an approved company to claim the sales tax credit provided by this subchapter.

(g)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the authority to obtain any information necessary from the approved company and the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** to verify that approved companies have received the proper amounts of sales tax credits as authorized by this subchapter.

(2) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall demand the repayment of any credits taken in excess of the credit allowed by this subchapter.

SECTION 463. Arkansas Code § 15-11-509(b), concerning an income tax credit for tourism attraction projects, is amended to read as follows:

<< AR ST § 15-11-509 >>

(b) Upon notification from the ~~Executive~~ Director of the Arkansas Economic Development Commission that an approved company has entered into a tourism attraction project agreement and is entitled to the income tax credit provided by this section, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide the approved company with such forms and instructions as are necessary to claim those credits.

SECTION 464. Arkansas Code § 15-11-511(d)(1)-(3), concerning special rules and qualified amusement parks, are amended to read as follows:

<< AR ST § 15-11-511 >>

(d)(1) Notwithstanding the other provisions of this subchapter, a qualified amusement park that on or after January 1, 2006, enters into an agreement that provides that the qualified amusement park shall expend approved costs of more than one million dollars (\$1,000,000) shall be entitled to a sales tax credit if the qualified amusement park certifies to the ~~Director~~ **Secretary** of the Department of Finance and Administration that it has expended at least one million dollars (\$1,000,000) in approved costs and the ~~Executive~~ Director of the Arkansas Economic Development Commission certifies that the qualified amusement park is in compliance with this subchapter.

(2) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall then issue a sales tax credit memorandum to the qualified amusement park equal to twenty-five percent (25%) of the approved costs. The sales tax credit memorandum may be used to offset the liability of the qualified amusement park for:

(A) Gross receipts tax levied under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.; and

(B) Tourism gross receipts tax levied under § 26-52-1001 et seq. [repealed].

(3) The ~~Director~~ **Secretary** of the Department of Finance and Administration may require proof of expenditures.

SECTION 465. Arkansas Code § 15-11-511(d)(5), concerning special rules and qualified amusement parks, is amended to read as follows:

<< AR ST § 15-11-511 >>

(5)(A) No sales tax credit memorandum shall be issued for any approved costs expended after the expiration of two (2) years from the date the agreement was signed by the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** and the qualified amusement park.

(B) However, the ~~Director~~ **Secretary** of the Department of Finance and Administration, with the advice and consent of the ~~Executive Director of the Arkansas Economic Development Commission~~ **director**, may authorize sales tax credits for approved costs expended up to four (4) years from the date the agreement was signed if the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** determines that the failure to complete the tourism attraction project within two (2) years resulted from:

(i) Unanticipated and unavoidable delay in the construction of the tourism attraction project;

(ii) The tourism attraction project, as originally planned, will require more than two (2) years to complete;
or

(iii) A change in business ownership or business structure resulting from a merger or an acquisition.

SECTION 466. Arkansas Code § 15–11–511(d)(8), concerning special rules and qualified amusement parks, is amended to read as follows:

<< AR ST § 15–11–511 >>

(8) By April 1 of each year, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall certify to the ~~Executive Director of the Arkansas Economic Development Commission~~ **director** the state sales tax liability of the qualified amusement parks receiving inducements under this section and the amount of state sales tax credits taken during the preceding calendar year.

SECTION 467. Arkansas Code § 15–23–203 is amended to read as follows:

<< AR ST § 15–23–203 >>

15–23–203. Employees.

The Arkansas Waterways Commission may employ ~~an Executive~~ **a** Director of the Arkansas Waterways Commission ~~and such other employees~~ as authorized by law and fix the salaries thereof **salary of the director** within the limitations of funds appropriated therefor to assist the commission in the performance of its duties under this subchapter.

SECTION 468. Arkansas Code § 17–25–402(b)(1), concerning the expenses and disposition of funds of the Contractors Licensing Board, is amended to read as follows:

<< AR ST § 17–25–402 >>

(b)(1) All taxes, premiums, contributions, penalties, interest, and fines collected pursuant to this subchapter, except enforcement penalties, shall be distributed pro rata, based upon the amount of taxes, premiums, and contributions due to the Department of Finance and Administration, the ~~Department~~ **Division** of Workforce Services, the Workers' Compensation Commission, or any city, county, or school district, or any other state agency or other political subdivision of the state, first to the extent of any taxes, premiums, and contributions due with any remainder applied to interest, penalties, and fines, in that order.

SECTION 469. Arkansas Code § 17–25–404(b)(3), concerning bond filing and terms with the Contractors Licensing Board, is amended to read as follows:

<< AR ST § 17–25–404 >>

(3) Conditioned on the contractor's complying with the tax laws of the State of Arkansas and, when applicable, the ordinances, rules, and regulations of any city, county, school district, state agency, or other political subdivision of the state, the ~~Department~~ **Division** of Workforce Services Law, § 11–10–101 et seq., the Workers' Compensation Law, § 11–9–101 et seq., and the provisions of this subchapter.

SECTION 470. Arkansas Code § 17–25–406(a)(1), concerning the notice of bond cancellation, is amended to read as follows:

<< AR ST § 17–25–406 >>

(a)(1) Notice of bond cancellation shall be given to the Contractors Licensing Board in writing sixty (60) days before cancellation. The board shall notify the Department of Finance and Administration, the Department **Division** of Workforce Services, and the Workers' Compensation Commission of the notice of cancellation.

SECTION 471. Arkansas Code § 17-38-201(a)(2)(B), concerning the powers and duties of the State Board of Health, is amended to read as follows:

<< AR ST § 17-38-201 >>

(B) The Director **Secretary** of the Department of Health or any employee of the Department of Health designated by the board **State Board of Health** may act for the State Board of Health except in adoption of rules and regulations;

SECTION 472. Arkansas Code § 17-38-202(b), concerning the appointment and duties of the Committee of Plumbing Examiners, is amended to read as follows:

<< AR ST § 17-38-202 >>

(b) The member from the department shall serve on the committee until replaced by the Director **Secretary** of the Department of Health.

SECTION 473. Arkansas Code § 17-38-401(3), concerning the definition of “department” under the apprentice plumber program, is repealed.

<< AR ST § 17-38-401 >>

~~(3) “Department” means the Department of Career Education .~~

SECTION 474. Arkansas Code § 17-38-402(3)(A), concerning the powers of the Career Education and Workforce Development Board, is amended to read as follows:

<< AR ST § 17-38-402 >>

(A) The Department of Career Education **Office of Skills Development**;

SECTION 475. Arkansas Code § 17-38-402(4), concerning the powers of the Career Education and Workforce Development Board, is repealed.

<< AR ST § 17-38-402 >>

~~(4) To review and approve a correspondence course for apprentice plumbers in hardship cases, provided that:~~

~~(A) The Department of Education will maintain the responsibility for a correspondence course. However, the Department of Education shall delegate the administration of the correspondence course to the Department of Career Education;~~

~~(B) The correspondence course material shall be developed by the Department of Education, subject to the approval of the State Apprenticeship Committee and the Department of Health, and made available and to be implemented by the local apprenticeship committee; and~~

~~(C) The apprentice is tested for adequate progress no fewer than four (4) times a year.~~

SECTION 476. Arkansas Code § 17–38–403(c), concerning the State Apprenticeship Committee, is amended to read as follows:

<< AR ST § 17–38–403 >>

(c) The Director of the ~~Department of Career Education~~ **Office of Skills Development** or his or her designee shall serve as a nonvoting advisory member to the committee.

SECTION 477. Arkansas Code § 17–38–407 is repealed.

<< Repealed: AR ST § 17–38–407 >>

~~17–38–407. Fees for correspondence courses.~~

~~The Department of Career Education is authorized to charge reasonable fees to those persons approved for correspondence courses for the costs of development, procurement, administration, and material associated with the correspondence course.~~

SECTION 478. Arkansas Code § 17–38–408 is repealed.

<< Repealed: AR ST § 17–38–408 >>

~~17–38–408. Disposition of fees and payments—Uses of funds.~~

~~(a) All fees or payments of any type collected by the Department of Career Education under this subchapter shall be deposited into the State Treasury on or before the fifth day of the month next following the month of collection of the fees or payments. The Treasurer of State shall credit the fees or payments to the credit of the Apprentice Plumbers Training Fund which is hereby created on the books of the Treasurer of State.~~

~~(b) All funds deposited into the Apprentice Plumbers Training Fund shall be used for the maintenance, operation, and improvement of the apprentice plumbers training program administered by the department.~~

SECTION 479. Arkansas Code § 19–5–701 is amended to read as follows:

<< AR ST § 19–5–701 >>

19–5–701. Purpose.

It is the purpose of this subchapter that all programs, regardless of their funding source, contribute equally to the cost of unemployment compensation benefits charged to the state agencies operating such programs. It is not the intent of this subchapter that the State of Arkansas relinquish its status as a nontaxable reimbursable employer under the **Department Division** of Workforce Services Law, § 11–10–101 et seq.

SECTION 480. Arkansas Code § 19–5–702(1), concerning the definition of “contribution” under the laws governing the reimbursement of unemployment compensation benefits, is amended to read as follows:

<< AR ST § 19–5–702 >>

(1) “Contribution” means a percentage of payroll expenditures paid to the Unemployment Compensation Revolving Fund by a state agency in order to provide current and timely reimbursements of benefits paid by the ~~Department~~ **Division** of Workforce Services Law, § 11–10–101 et seq., for unemployment benefits charged to the agency;

SECTION 481. Arkansas Code § 19–5–704(b), concerning the administration reimbursement of unemployment compensation benefits, is amended to read as follows:

<< AR ST § 19–5–704 >>

(b) Upon certification to the Chief Fiscal Officer of the State by the ~~Department~~ **Division** of Workforce Services of unemployment compensation benefits paid during a benefit period and charged to a state agency, the Chief Fiscal Officer of the State shall direct that reimbursement be made to the ~~department~~ **division** from the Unemployment Compensation Revolving Fund for such amounts as are properly certified.

SECTION 482. Arkansas Code § 19–5–706(c), concerning the Unemployment Compensation Revolving Fund, is amended to read as follows:

<< AR ST § 19–5–706 >>

(c) The funds shall be used to reimburse the ~~Department~~ **Division** of Workforce Services, in a timely manner, for unemployment compensation benefits paid by the ~~department~~ **division** and charged to a state agency, as provided in this subchapter and other laws applicable to state employees' unemployment compensation and for such other purposes as may be authorized by law.

SECTION 483. Arkansas Code § 19–5–709(a), concerning loans to the Unemployment Compensation Revolving Fund, is amended to read as follows:

<< AR ST § 19–5–709 >>

(a) In the event that the Unemployment Compensation Revolving Fund does not have sufficient funds available from contributions by state agencies to make reimbursement to the ~~Department~~ **Division** of Workforce Services for benefits paid, loans may be made from the Budget Stabilization Trust Fund to make such payments.

SECTION 484. Arkansas Code § 19–5–912 is amended to read as follows:

<< AR ST § 19–5–912 >>

19–5–912. ~~Department~~ **Division of Workforce Services Trust Fund.**

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the “~~Department~~ **Division** of Workforce Services Trust Fund”.

(b) The fund shall consist of such revenues as may be authorized by the federal government for support of various programs within the ~~Department~~ **Division** of Workforce Services, any interest accruing on these revenues, and any other funds made available by the General Assembly.

(c) The fund shall be used for the payment of program expenses of the ~~department~~ **division**.

SECTION 485. Arkansas Code § 19–5–939(c), concerning the Unemployment Compensation Revolving Fund, is amended to read as follows:

<< AR ST § 19–5–939 >>

(c) The funds shall be used to reimburse the ~~Department~~ **Division** of Workforce Services, in a timely manner, for unemployment compensation benefits paid by the ~~department~~ **division** and charged to a state agency, as provided in § 19–5–701 et seq., and other laws applicable to state employees' unemployment compensation and for such other purposes as may be authorized by law.

SECTION 486. Arkansas Code § 19–5–984 is amended to read as follows:

<< AR ST § 19–5–984 >>

19–5–984. ~~Department~~ **Division of Workforce Services Special Fund.**

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “~~Department~~ **Division** of Workforce Services Special Fund”.

(b)(1) The fund shall consist of unemployment compensation contribution interest and penalty payments collected under §§ 11–10–716 — 11–10–723 and interest and penalty payments on overpayments collected under § 11–10–532.

(2) The fund shall be used for refunds of interest and penalties erroneously paid and other additional purposes necessary to the proper administration of the ~~Department~~ **Division** of Workforce Services Law, § 11–10–101 et seq., as determined by the Director of the ~~Department~~ **Division** of Workforce Services under §§ 11–10–532 and 11–10–716 — 11–10–723.

(c) The director shall report to the Legislative Council on a quarterly basis on all uses of the fund.

SECTION 487. Arkansas Code § 19–5–999(a), concerning the Individual Development Account Trust Fund, is amended to read as follows:

<< AR ST § 19–5–999 >>

(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 trust fund for the ~~Department~~ **Division** of Workforce Services to be designated the “Individual Development Account Trust Fund”.

SECTION 488. Arkansas Code § 19–5–1097(b), concerning the Public Roads Incentive Fund, is amended to read as follows:

<< AR ST § 19–5–1097 >>

(b) The fund shall consist of contributions made by taxpayers for public roads projects approved by the Executive Director of the Arkansas Economic Development Commission and any other funds as are designated or deposited into the fund by law.

SECTION 489. Arkansas Code § 19–5–1097(c)(2), concerning the Public Roads Incentive Fund, is amended to read as follows:

<< AR ST § 19–5–1097 >>

(2) Any contributions which remain in the fund when a project is completed or terminated shall be held and applied to other public roads projects in such manner as the executive director shall direct.

SECTION 490. Arkansas Code § 19–5–1131 is amended to read as follows:

<< AR ST § 19–5–1131 >>

19–5–1131. Department Division of Workforce Services Training Trust Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the “~~Department~~ **Division** of Workforce Services Training Trust Fund”.

(b)(1) The fund shall consist of the proceeds of the stabilization tax specified in § 11–10–706(f), any interest accruing on these revenues, and any other funds made available by the General Assembly.

(2) The fund shall be used for worker training under rules and regulations promulgated by the Director of the ~~Department~~ **Division** of Workforce Services.

(c) The director shall report to the Legislative Council on a quarterly basis on all uses of the fund.

SECTION 491. Arkansas Code § 19–5–1232 is amended to read as follows:

<< AR ST § 19–5–1232 >>

19–5–1232. Department Division of Workforce Services Unemployment Insurance Administration Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous fund to be known as the “~~Department~~ **Division** of Workforce Services Unemployment Insurance Administration Fund”.

(b)(1) The fund shall consist of the proceeds of the stabilization tax as specified in § 11–10–706(f), any interest accruing on these revenues, and any other funds made available by the General Assembly.

(2) The fund shall be used for personal services and operating expenses of the unemployment insurance program necessary to the proper administration of the ~~Department~~ **Division** of Workforce Services Law, § 11–10–101 et seq., as determined by the Director of the ~~Department~~ **Division** of Workforce Services.

(c) The ~~Director of the Department of Workforce Services~~ **director** shall report to the Legislative Council on a quarterly basis on all uses of the fund.

SECTION 492. Arkansas Code § 19–5–1234 is amended to read as follows:

<< AR ST § 19-5-1234 >>

19-5-1234. ~~Department~~ Division of Workforce Services Fund.

(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 fund to be known as the “~~Department~~ **Division** of Workforce Services Fund”.

(b) The fund shall consist of those general revenues as may be authorized by law and any other nonfederal funds as may be provided by law.

(c) The fund shall be used for the maintenance, operation, and improvement required by the ~~Department~~ **Division** of Workforce Services in carrying out those powers, functions, and duties imposed by law upon the Director of the ~~Department~~ **Division** of Workforce Services as set out in the ~~Department~~ **Division** of Workforce Services Law, § 11-10-101 et seq., and § 20-76-101 et seq., or any other duties that may be imposed by law upon the ~~department~~ **division**, including those duties transferred to the ~~department~~ **division** under the provisions of § 20-76-111 [repealed].

SECTION 493. Arkansas Code § 19-6-402 is amended to read as follows:

<< AR ST § 19-6-402 >>

19-6-402. Arkansas ~~Department~~ Division of Aeronautics Fund.

The ~~Arkansas Department~~ **Division** of Aeronautics Fund shall consist of those special revenues as specified in § 19-6-301(17), there to be used for making grants-in-aid to qualifying airports of this state as authorized by law and for the maintenance, operation, and improvement required by the ~~Arkansas Department~~ **Division** of Aeronautics in carrying out the functions, powers, and duties, as set out in § 27-114-101 et seq., or other duties imposed by law upon the ~~department~~ **division**.

SECTION 494. Arkansas Code § 19-10-204(b)(1)(A)(i)(b), concerning jurisdiction of the Arkansas State Claims Commission, is amended to read as follows:

<< AR ST § 19-10-204 >>

(b) The ~~Department~~ **Division** of Workforce Services Law, § 11-10-101 et seq.;

SECTION 495. Arkansas Code § 19-10-204(b)(1)(A)(iii)(a), concerning the jurisdiction of the Arkansas State Claims Commission, is amended to read as follows:

<< AR ST § 19-10-204 >>

(a) A claim by a member of the uniformed armed services against the ~~State Military Department~~ **Department of the Military**, the State militia **Militia**, or any subdivision thereof, if the claim arises out of the performance of the claimant's military duty;

SECTION 496. Arkansas Code § 19–10–204(b)(1)(A)(iii)(b) and (c), concerning jurisdiction of the Arkansas State Claims Commission, are amended to read as follows:

<< AR ST § 19–10–204 >>

(b) Claims against the ~~Department~~ **Division** of Community Correction for acts committed by a person while that person is subject to conditions of parole or probation under Arkansas law;

(c) Claims against the ~~Department~~ **Division** of Correction for acts committed by inmates while on authorized release from the ~~Department~~ **Division** of Correction; or

SECTION 497. Arkansas Code § 19–11–259(a)(2)(B)(ii), concerning the definition of “firm resident in Arkansas” under the law regarding preferences among bidders, is amended to read as follows:

<< AR ST § 19–11–259 >>

(ii) For not fewer than two (2) successive years immediately prior to submitting a bid, has paid taxes under the ~~Department~~ **Division** of Workforce Services Law, § 11–10–101 et seq., unless exempt, and either the Arkansas Gross Receipts Act of 1941, § 26–52–101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26–53–101 et seq., on any property used or intended to be used for or in connection with the firm's business; and

SECTION 498. Arkansas Code § 19–12–115(c)(1), derived from Initiated Act 1 of 2000 and concerning the establishment and administration of the Arkansas Biosciences Institute, is amended to read as follows:

<< AR ST § 19–12–115 >>

(c)(1) Arkansas Biosciences Institute Board. There is hereby established the Arkansas Biosciences Institute Board which shall consist of the following: the President of the University of Arkansas; the President of Arkansas State University; the Chancellor of the University of Arkansas for Medical Sciences; the Chancellor of the University of Arkansas at Fayetteville; the Vice President for Agriculture of the University of Arkansas; the ~~Executive~~ Director of the Arkansas Economic Development Commission; the Director of the National Center for Toxicological Research; the President of Arkansas Children's Hospital; and two (2) individuals possessing recognized scientific, academic or business qualifications appointed by the Governor. The two (2) members of the Arkansas Biosciences Institute Board who are appointed by the Governor will serve four (4) year terms and are limited to serving two consecutive four (4) year terms. The terms shall commence on October 1 of each year. These members appointed by the Governor are not entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25–16–902, to be paid from funds appropriated for this program. The Arkansas Biosciences Institute Board shall establish and appoint the members of an Industry Advisory Committee and a Science Advisory Committee composed of knowledgeable persons in the fields of industry and science. These Committees shall serve as resources for the Arkansas Biosciences Institute Board in their respective areas and will provide an avenue of communication to the Arkansas Biosciences Institute Board on areas of potential research.

SECTION 499. Arkansas Code § 20–14–203(a), concerning ex officio members of the Governor's Commission on People with Disabilities, is amended to read as follows:

<< AR ST § 20–14–203 >>

(a) The Director of the ~~Department of Human Services~~ **Arkansas Rehabilitation Services**, the deputy director of the appropriate division as determined by the ~~Director~~ **Secretary** of the Department of ~~Human Services~~ **Commerce**, and the Director of the ~~Department~~ **Division** of Workforce Services or any director, commissioner, or administrator of successors' agencies shall serve as ex officio members of the Governor's Commission on People with Disabilities.

SECTION 500. Arkansas Code § 20–14–207(b)(1), concerning the Executive Board of the Governor's Commission on People with Disabilities, is repealed.

<< AR ST § 20–14–207 >>

~~(1) Appointing, subject to the personnel law, such staff as is necessary to carry out the commission's objectives of the Governor's Commission on people with Disabilities;~~

SECTION 501. Arkansas Code § 20–14–209 is amended to read as follows:

<< AR ST § 20–14–209 >>

20–14–209. Administrative support.

(a) The appropriate division as determined by the ~~Director of the Department of Human Services~~ **Director of Arkansas Rehabilitation Services, Secretary of the Department of Commerce**, or any other agency or division as the Governor shall designate shall provide administrative support to the Governor's Commission on People with Disabilities.

(b) A representative of the ~~appropriate division as determined by the director or any other agency or division as the Governor shall designate~~ **Secretary of the Department of Commerce** shall be appointed as executive director to effect the coordination between the division and the Chair of the Governor's Commission on People with Disabilities in the arrangement of the support.

SECTION 502. Arkansas Code § 20–76–102(a) and (b), concerning coordination of state agency service delivery of transitional employment assistance services, are amended to read as follows:

<< AR ST § 20–76–102 >>

(a) To ensure that all available state government resources are used to help transitional employment assistance recipients make the transition from welfare to work, each of the following state agencies and organizations shall also be required to work with the ~~Department~~ **Division** of Workforce Services in providing transitional employment assistance services:

- (1) The Department of Human Services;
- (2) The ~~Department~~ **Division** of Higher Education, including community colleges and the University of Arkansas Cooperative Extension Service;
- (3) The ~~Department of Education~~ **Division of Elementary and Secondary Education**;
- (4) The Arkansas Development Finance Authority;

- (5) The Arkansas Economic Development Council;
- (6) The Arkansas Department of Transportation;
- (7) The Department of Finance and Administration, including the Office of Child Support Enforcement;
- (8) The Adult Learning Alliance, Inc.;
- (9) The ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services**; and
- (10) Other state agencies as directed by the Governor or as directed by the General Assembly.

(b) State agencies required under subsection (a) of this section to work with the ~~Department~~ **Division** of Workforce Services in providing transitional employment assistance services to recipients shall make every effort to use financial resources in their respective budgets and to seek additional funding sources, whether private or federal, to supplement the moneys allocated by the ~~Department~~ **Division** of Workforce Services for the Transitional Employment Assistance Program.

SECTION 503. The introductory language of Arkansas Code § 20-76-106(a), concerning Transitional Employment Assistance Program and the statewide implementation plan, is amended to read as follows:

<< AR ST § 20-76-106 >>

(a) The ~~Department~~ **Division** of Workforce Services shall:

SECTION 504. Arkansas Code § 20-76-106(b)(1), concerning Transitional Employment Assistance Program and the statewide implementation plan, is amended to read as follows:

<< AR ST § 20-76-106 >>

(1) Performance standards and measurement criteria for state and county offices of the Department of Human Services, the ~~Department~~ **Division** of Workforce Services, and all service providers under the program;

SECTION 505. Arkansas Code § 20-76-106(c)(1) and (2), concerning Transitional Employment Assistance Program and the statewide implementation plan, are amended to read as follows:

<< AR ST § 20-76-106 >>

(c)(1)(A) The ~~Department~~ **Division** of Workforce Services shall prepare a comprehensive annual program report.
 (B) The report shall be subject to review and recommendation by the board.

(2) The ~~Department~~ **Division** of Workforce Services shall submit the comprehensive annual program report to the Governor, the House Committee on Public Health, Welfare, and Labor, and the Senate Committee on Public Health, Welfare, and Labor.

SECTION 506. The introductory language of Arkansas Code § 20-76-109, concerning the use of contracts by the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20-76-109 >>

The ~~Department~~ **Division** of Workforce Services, as appropriate, should provide work activities, training, and other services through contracts. In contracting for work activities, training, or services, the following apply:

SECTION 507. Arkansas Code § 20-76-109(4)(A), concerning the use of contracts by the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20-76-109 >>

(4)(A) The ~~department~~ **division** may contract with commercial, charitable, or faith-based organizations.

SECTION 508. 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:

<< AR ST § 20-76-113 >>

(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 509. Arkansas Code § 20-76-209(a), concerning payment of certain contributions and withholdings by Department of Human Services, is amended to read as follows:

<< AR ST § 20-76-209 >>

(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.

SECTION 510. Arkansas Code § 20–76–210(a), concerning the payment of certain contributions and withholdings for certain nursing home care projects, is amended to read as follows:

<< AR ST § 20–76–210 >>

(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 Act, 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 homemaker and home health aid trainee is participating in the subsidized employment project to prevent premature nursing home care.

SECTION 511. Arkansas Code § 20–76–214(a), concerning the payment of certain contributions and withholdings related to transitional employment assistance, is amended to read as follows:

<< AR ST § 20–76–214 >>

(a) 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 Act, the Workers' Compensation Law, § 11–9–101 et seq., the ~~Department~~ **Division** of Workforce Services Law, § 11–10–101 et seq., and private medical insurance premiums for eligible individuals where that is necessary to achieve employment assistance.

SECTION 512. Arkansas Code § 20–76–401(a)(2) and (3), concerning eligibility for the Transitional Employment Assistance Program, are amended to read as follows:

<< AR ST § 20–76–401 >>

(2)(A) The Transitional Employment Assistance Program shall be administered by the Department of Human Services and the ~~Department~~ **Division** of Workforce Services.

(B) Subject to the order of the Governor, the ~~Department~~ **Division** of Workforce Services may take full authority for administering the Transitional Employment Assistance Program.

(C) The ~~Department~~ **Division** of Workforce Services may contract with the Department of Human Services for administrative services.

(3) The ~~Department~~ **Division** of Workforce Services may operate a separate Transitional Employment Assistance Program Two-Parent Program funded by state funds not claimed for the federal Temporary Assistance for Needy Families program maintenance of effort requirement if the Director of the ~~Department~~ **Division** of Workforce Services deems such action necessary to avoid the risk of not meeting the two-parent work participation rate.

SECTION 513. The introductory language of Arkansas Code § 20–76–402(a), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20–76–402 >>

(a) The ~~Department~~ **Division** of Workforce Services shall develop and describe categories of approved work activities for transitional employment assistance recipients in accordance with this section. The rules shall be subject to review and

recommendation by the Arkansas Workforce Development Board. Approved work activities may include unsubsidized employment, subsidized private sector employment, subsidized public sector employment, education or training, vocational educational training, skills training, job search and job readiness assistance, on-the-job training, micro enterprise, community service, and work experience. For purposes of this section:

SECTION 514. The introductory language of Arkansas Code § 20-76-402(a)(2)(A), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20-76-402 >>

(2)(A) "Subsidized private sector employment" is employment in a private for-profit enterprise or a private not-for-profit enterprise which is directly supplemented by federal or state funds. A program recipient in subsidized private sector employment shall be eligible for the same benefits as a nonsubsidized employee who performs similar work. Before receiving any subsidy or incentive, an employer shall enter into a written contract with the ~~Department~~ **Division** of Workforce Services which may include, but not be limited to, provisions addressing any of the following:

SECTION 515. Arkansas Code § 20-76-402(a)(2)(A)(v), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20-76-402 >>

(v) Weighting of incentive payments proportionally to the extent to which the recipient has limitations associated with the long-term receipt of welfare and difficulty in sustaining employment. In establishing incentive payments, the ~~Department~~ **Division** of Workforce Services shall consider the extent of the recipient's prior receipt of welfare, lack of employment experience, lack of education, lack of job skills, and other appropriate factors.

SECTION 516. Arkansas Code § 20-76-402(a)(2)(B), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20-76-402 >>

(B) The ~~Department~~ **Division** of Workforce Services may require an employer to repay some or all of a subsidy or incentive previously paid to an employer under the program unless the recipient is terminated for cause;

SECTION 517. The introductory language of Arkansas Code § 20-76-402(a)(3)(A), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20-76-402 >>

(3)(A) "Subsidized public sector employment" is employment by an agency of the federal, state, or local government which is directly supplemented by federal or state funds. A program recipient in subsidized public sector employment shall be eligible for the same benefits as a nonsubsidized employee who performs similar work. Before receiving any subsidy or incentive, an employer shall enter into a written contract with the ~~Department~~ **Division** of Workforce Services that may include, but not be limited to, provisions addressing any of the following:

SECTION 518. Arkansas Code § 20–76–402(a)(3)(A)(v), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20–76–402 >>

(v) Weighting of incentive payments proportionally to the extent to which the recipient has limitations associated with the long-term receipt of welfare and difficulty in sustaining employment. In establishing incentive payments, the ~~Department~~ **Division** of Workforce Services shall consider the extent of the recipient's prior receipt of welfare, lack of employment experience, lack of education, lack of job skills, and other appropriate factors.

SECTION 519. Arkansas Code § 20–76–402(a)(3)(B), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20–76–402 >>

(B) The ~~Department~~ **Division** of Workforce Services may require an employer to repay some or all of a subsidy and incentive previously paid to an employer under the program unless the recipient is terminated for cause;

SECTION 520. Arkansas Code § 20–76–402(b)(1), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20–76–402 >>

(1) Be on the statewide or appropriate area list of occupations in the “Guide to Educational Training Programs for Demand Occupations” published by the ~~Department~~ **Division** of Workforce Services;

SECTION 521. Arkansas Code § 20–76–402(d), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20–76–402 >>

(d)(1) The ~~Department~~ **Division** of Workforce Services shall require participation in approved work activities to the maximum extent possible, subject to federal and state funding. If funds are projected to be insufficient to support full-time work activities by all program recipients who are required to participate in work activities, the ~~Department~~ **Division** of Workforce Services shall screen recipients and assign priority in accordance with the implementation plan.

(2) In accordance with the implementation plan, the ~~Department~~ **Division** of Workforce Services may limit a recipient's weekly work requirement to the minimum required to meet federal work activity requirements and may develop screening and prioritization procedures within employment opportunity districts or within counties based on the allocation of resources, the availability of community resources, or the work activity needs of the employment opportunity district or county.

SECTION 522. Arkansas Code § 20–76–402(e)(3), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20-76-402 >>

(3) The ~~Department~~ **Division** of Workforce Services shall establish and maintain a grievance procedure for resolving complaints of alleged violations of subdivision (e)(2) of this section.

SECTION 523. The introductory language of Arkansas Code § 20-76-402(f), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20-76-402 >>

(f) The ~~Department~~ **Division** of Workforce Services, subject to review and recommendation by the board, shall establish criteria to exempt or temporarily defer the following persons from any work activity requirement:

SECTION 524. Arkansas Code § 20-76-402(f)(9), concerning work activities of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20-76-402 >>

(9) An individual who, as determined by a ~~Department~~ **Division** of Workforce Services case manager, is unable to participate in work activities due directly to the effects of domestic violence. All case manager determinations made under this subdivision (f)(9) shall be reviewed by a supervisor within five (5) days of such determination;

SECTION 525. Arkansas Code § 20-76-404 is amended to read as follows:

<< AR ST § 20-76-404 >>

20-76-404. Duration of assistance — Extended support services.

(a)(1) ~~Beginning July 1, 1998, the Department~~ **The Division** of Workforce Services shall not provide financial assistance to a family that includes an adult recipient who has received financial assistance for more than twenty-four (24) months, except as provided in subsection (c) of this section.

(2) The number of months need not be consecutive and shall include the time a recipient receives financial assistance from another state.

(3) The ~~Department~~ **Division** of Workforce Services may by regulation establish other limitations on the receipt of financial assistance not inconsistent with state or federal law.

(b)(1) The ~~Department~~ **Division** of Workforce Services shall certify to the Governor, the House Committee on Public Health, Welfare, and Labor, and the Senate Committee on Public Health, Welfare, and Labor when the support services necessary for program recipients to obtain employment or participate in allowable work activities are available.

(2) The ~~Department~~ **Division** of Workforce Services may certify subsets of program recipients, including without limitation recipients in a certain geographical area or employment opportunity district or program recipients with a high school diploma or high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section**.

(3) Before implementing the twenty-four-month cumulative limit on financial assistance, the ~~Department~~ **Division** of Workforce Services shall notify program recipients by direct mail or contact and by other means reasonably calculated

to reach to current and potential program recipients, including, but not limited to, the posting of notices in county offices.

(c) The ~~Department~~ **Division** of Workforce Services shall exempt or temporarily defer within thirty (30) calendar days the following persons from the twenty-four-month cumulative limit on financial assistance:

(1) An individual, as determined by a ~~Department~~ **Division** of Workforce Services case manager, who cooperated and participated in activities, but was unable to obtain employment because of circumstances or barriers beyond his or her control;

(2) Child-only cases;

(3) An individual unable to obtain employment because of the lack of support services necessary to overcome barriers to employment;

(4) A parent or caregiver over sixty (60) years of age;

(5) A parent or caregiver who is caring for a disabled child relative or disabled adult relative, based upon criteria set forth in ~~Department~~ **Division** of Workforce Services regulations;

(6) A disabled parent or caregiver, based upon criteria set forth in ~~Department~~ **Division** of Workforce Services regulations;

(7) A parent less than eighteen (18) years of age who resides in the home of a parent or in an approved adult-supervised setting and who participates in full-time education or training;

(8) An individual, who as determined by a ~~Department~~ **Division** of Workforce Services case manager, is unable to obtain employment due directly to the effects of domestic violence. All case manager determinations made under this subdivision (c)(8) shall be reviewed by a supervisor within five (5) days of the determination;

(9) Other individuals as determined by the ~~Department~~ **Division** of Workforce Services, including, but not limited to, a child when necessary to protect the child from the risk of neglect, as defined by § 12-18-103(14); and

(10) Individuals participating in education and training activities who have reached the end of their twenty-four-month cumulative limit on financial assistance, have complied with all transitional employment assistance regulations, are making satisfactory academic progress as determined by the academic institution or training program in which the individual is currently enrolled, and are expected to complete the requirements for the education or training program within a reasonable period of time as defined in regulations issued by the ~~Department~~ **Division** of Workforce Services.

(d)(1) No months shall be counted toward a person's twenty-four-month cumulative limit on financial assistance while he or she is receiving a deferral or exemption.

(2) There shall be no limit on the length or the number of deferrals or exemptions granted each person as long as the person meets any of the criteria outlined in subsection (c) of this section.

(3) The ~~Department~~ **Division** of Workforce Services shall periodically review each case to determine whether the person still meets any of the criteria outlined in subsection (c) of this section.

(4)(A) The ~~Department~~ **Division** of Workforce Services shall carry out an enhanced review of all cases six (6) months before the expiration of the time limit.

(B) The review shall assess the barriers that remain to the adult or adults in the case obtaining employment, what enhanced services can be provided to enable him or her to obtain employment, and whether the case should be given a six-month extension or be exempted from the time limit.

(C) The ~~Department~~ **Division** of Workforce Services shall make every reasonable effort to deliver the available services identified in subdivision (d)(4)(B) of this section.

(D) The ~~Department~~ **Division** of Workforce Services shall grant an extension at the time for review if the client meets one (1) of the grounds for extension.

(E) The ~~Department~~ **Division** of Workforce Services shall carry out a further review at the end of the extension period.

(e)(1) A recipient who was eligible for Medicaid and loses his or her financial assistance due to earnings and whose income remains below one hundred eighty-five percent (185%) of the federal poverty level shall remain eligible for transitional Medicaid without reapplication during the immediately succeeding twelve-month period if private medical insurance is unavailable from the employer.

(2) A recipient who loses his or her financial assistance due to earnings and who is employed shall be eligible for:

(A) Childcare assistance at no cost and without reapplication for a cumulative period of twelve (12) months; and

(B) Twenty-four (24) additional months of childcare assistance provided on a sliding fee scale or other cost-sharing arrangement as determined by the ~~Department~~ **Division** of Workforce Services.

(3) The ~~Department~~ **Division** of Workforce Services may reduce the period of transitional child care to a total of twenty-four (24) months for recipients who lose assistance at a specified date after the ~~Department~~ **Division** of Workforce Services' decision to limit the assistance if the ~~Department~~ **Division** of Workforce Services certifies to the Governor and the Chief Fiscal Officer of the State that the reduction is necessary to avoid overspending the biennial budget for child care.

(4) The transitional childcare assistance available to former recipients shall not exceed the cumulative number of months provided under subdivisions (e)(2) and (3) of this section, regardless of whether the former recipient reenters the Transitional Employment Assistance Program.

(f)(1) The ~~Department~~ **Division** of Workforce Services shall deny Medicaid, childcare, and transportation assistance during the twelve-month period for any month in which the recipient's family does not include a dependent child.

(2) The ~~Department~~ **Division** of Workforce Services shall notify the recipient of transitional Medicaid, childcare, and transportation assistance when the recipient is notified of the termination of cash assistance. The notice shall include a description of the circumstances in which the transitional Medicaid and childcare assistance may be terminated.

(g)(1) In order to assist current and former program recipients in continuing training and upgrading skills, transitional education or training may be provided to a recipient for up to one (1) year after the recipient is no longer eligible to participate in the program due to employment earnings.

(2) Education or training resources available in the community at no additional cost to the ~~Department~~ **Division** of Workforce Services shall be used whenever possible.

(3) Transitional education or training shall be employment-related and may include education or training to improve a recipient's job skills in the recipient's existing area of employment or may include education or training to prepare a recipient for employment in another occupation.

- (4) The ~~Department~~ **Division** of Workforce Services may enter into an agreement with an employer to share the costs relating to upgrading the skills of recipients hired by the employer.
- (h) Other extended support services may be available to recipients no longer eligible for financial assistance under transitional employment assistance.
- (i)(1) By August 1, 2001, the ~~Department~~ **Division** of Workforce Services shall develop a plan, subject to review and recommendation by the Arkansas Workforce Development Board, to monitor and protect the safety and well-being of the children within a family whose temporary assistance is terminated for any reason other than the family's successful transition to economic self-sufficiency.
- (2)(A) Actions required by the plan shall include at least one (1) home visit with the parents and children.
- (B) Every reasonable effort shall be made to make contact with all families, including visits during evenings and on weekends.
- (C) The first home visit shall occur within six (6) months after the termination of cash assistance.
- (D) The purposes of the home visits shall include checking on the well-being of children in those families and determining whether the families need available services.
- (3) The ~~Department~~ **Division** of Workforce Services may contract with other state agencies, private companies, local government agencies, or community organizations for the conducting of these visits.
- (4) The board shall submit a report to the Governor and 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 that report on the outcomes of the home visits and provide separate information for families who left transitional assistance due to noncompliance and time limits.
- (j) As part of the home visits, families shall be informed about the availability of Medicaid and ARKids First, food stamps, child care, housing assistance, any other supportive services offered by the ~~Department~~ **Division** of Workforce Services or the Department of Health designed to help meet the basic needs and well-being of children, federal and state earned income tax credits, individual development accounts, employment counseling services, and education and training opportunities designed to increase the future earnings and employment prospects of clients.

SECTION 526. Arkansas Code § 20-76-410(b)-(f), concerning transitional employment assistance and administrative sanctions, are amended to read as follows:

<< AR ST § 20-76-410 >>

- (b) The ~~Department~~ **Division** of Workforce Services may define by rule additional situations that require sanction, establish additional sanctions, and provide for administrative disqualification.
- (c)(1) If a parent fails to comply with the Transitional Employment Assistance Program requirements, financial assistance for the child or children may be continued under subdivisions (a)(1)-(5) of this section, and the ~~department~~ **division** shall suspend the family's assistance for one (1) month.
- (2)(A) During the thirty (30) days after suspension of benefits, the ~~department~~ **division** shall make strong efforts to arrange a face-to-face meeting with the parent, including a home visit to the family if necessary.
- (B) In the face-to-face meeting, the ~~department~~ **division** shall explain:

- (i) The reason that the family has been found to be noncompliant;
- (ii) The penalty that will be imposed; and
- (iii) The opportunity to correct that noncompliance and avoid the penalty.

(C) The ~~department~~ **division** shall also seek to determine the well-being of the child or children and whether additional services or actions are required to protect the well-being of the child or children.

(D) If the parent comes into compliance within fifteen (15) business days after the face-to-face meeting and maintains compliance for two (2) weeks, the suspended benefits shall be paid to the family.

(3) If the parent fails to come into compliance during the period of suspended benefits, the family's financial assistance may be reduced by up to twenty-five percent (25%) for the next three (3) months if noncompliance continues.

(4) If the parent's noncompliance continues after the fourth month, the ~~department~~ **division** shall suspend the family's financial assistance for two (2) months.

(5)(A) During the thirty (30) days after suspension of benefits, the ~~department~~ **division** shall make strong efforts to arrange a face-to-face meeting with the parent, including a home visit to the family if necessary.

(B) In the face-to-face meeting, the ~~department~~ **division** shall explain:

- (i) The reason that the family has been found to be noncompliant;
- (ii) The penalty that will be imposed; and
- (iii) The opportunity to correct that noncompliance and avoid the penalty.

(C) The ~~department~~ **division** shall also seek to determine the well-being of the child or children and whether additional services or actions are required to protect the well-being of the child or children.

(D) If the parent comes into compliance within fifteen (15) business days and maintains compliance for two (2) weeks, the suspended benefits shall be paid to the parent.

(E) If the parent fails to come into compliance during the second period of suspended benefits, the family's financial assistance may be reduced by up to fifty percent (50%) for the next three (3) months, if noncompliance continues.

(F) Months during which cash assistance benefits are suspended shall not count toward the family's twenty-four-month limit on receiving Transitional Employment Assistance Program assistance.

(G) The Transitional Employment Assistance Program cash assistance case shall be closed if noncompliance continues after the end of the period under this subdivision (c)(5).

(6) The ~~department~~ **division** shall arrange a home visit with the family during the last month of the sanction to determine the well-being of the child or children and to determine whether additional services are required to protect the well-being of the child or children.

(7) Medicaid and food stamp benefits shall be continued without need for reapplication if the family is being sanctioned and for as long as the family remains eligible under the requirements of those programs.

- (8) ~~Department~~ **Division** staff may contract with other state agencies, local coalitions, or appropriate community organizations to carry out the strong efforts to communicate with families facing sanction and to conduct the face-to-face meetings and home visits specified in this section.
- (d) Beginning after July 27, 2011, the ~~department~~ **division** shall include in the comprehensive annual program report information on the families sanctioned and the outcomes of the home visits to the Governor and the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor.
- (e) When appropriate, protective payees may be designated by the ~~department~~ **division** and may include:
- (1) A relative or other individual who is interested in or concerned with the welfare of the child or children and agrees in writing to utilize the assistance in the best interests of the child or children;
 - (2) A member of the community affiliated with a religious, community, neighborhood, or charitable organization who agrees in writing to utilize the assistance in the best interests of the child or children; or
 - (3) A volunteer or member of an organization who agrees in writing to utilize the assistance in the best interests of the child or children.
- (f)(1) If it is in the best interest of the child or children, as determined by the ~~department~~ **division**, for the staff member of a private agency, a public agency, the ~~department~~ **division**, or any other appropriate organization to serve as a protective payee, the designation may be made.
- (2) However, a protective payee shall not be any individual involved in determining eligibility for assistance for the family, staff handling any fiscal pressures related to the issuance of assistance, or landlords, grocers, or vendors of goods, services, or items dealing directly with the recipient.

SECTION 527. Arkansas Code § 20–76–437 is amended to read as follows:

<< AR ST § 20–76–437 >>

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 528. Arkansas Code § 20–76–438(b)(1)(A) and (B), concerning the purpose of public assistance, are amended to read as follows:

<< AR ST § 20–76–438 >>

- (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 529. The introductory language of Arkansas Code § 20-76-438(b)(2), concerning the purpose of public assistance, are amended to read as follows:

<< AR ST § 20-76-438 >>

(2) Therefore, it is in the public interest that the General Assembly authorize the ~~Department~~ **Division** of Workforce Services to:

SECTION 530. 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:

<< AR ST § 20-76-443 >>

(a)(1) The Department of Human Services and the ~~Department~~ **Division** of Workforce Services shall permit Transitional Employment Assistance Program recipients to obtain the education and training they need to obtain jobs that pay wages allowing them to be economically self-sufficient.

(2) Program recipients who are assessed as having basic education deficiencies shall be allowed to combine educational activities leading to a high school diploma or high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section** and employment and work experience. Participants may be required to engage in internships, work experience, or employment. Work requirements shall not exceed fifteen (15) hours per week unless the Department of Human Services certifies that allowing education to count toward Transitional Employment Assistance Program recipients' required work activities would affect the state's ability to meet federal work participation rates. To the extent possible, educational activities shall take place in a work context.

SECTION 531. Arkansas Code § 20-76-443(d)(2), concerning education and training for Transitional Employment Assistance Program recipients, is amended to read as follows:

<< AR ST § 20-76-443 >>

(2) The ~~Department~~ **Division** of Workforce Services and the Arkansas Early Childhood Commission jointly shall promulgate rules to develop an evening childcare program with extended hours under subdivision (d)(1) of this section.

SECTION 532. Arkansas Code § 20-76-444(a)(2)(A), concerning the creation and duties of the Arkansas Work Pays Program, is amended to read as follows:

<< AR ST § 20-76-444 >>

(2)(A) The Arkansas Work Pays Program shall be administered by the ~~Department~~ **Division** of Workforce Services.

SECTION 533. Arkansas Code § 20-76-444(c)(2), concerning the creation and duties of the Arkansas Work Pays Program, is amended to read as follows:

<< AR ST § 20-76-444 >>

(2) The ~~department~~ **Division** may set payment levels for families earning above the federal poverty level by rule to allow for a gradual reduction in payments as earnings rise toward one hundred fifty percent (150%) of the federal poverty level.

SECTION 534. The introductory language of Arkansas Code § 20-76-444(f), concerning the creation and duties of the Arkansas Work Pays Program, is amended to read as follows:

<< AR ST § 20-76-444 >>

(f) The ~~Department~~ **Division** of Workforce Services shall administer a work incentive program that includes cash bonuses and other financial incentives to encourage:

SECTION 535. Arkansas Code § 20-76-444(g)(1), concerning the creation and duties of the Arkansas Work Pays Program, is amended to read as follows:

<< AR ST § 20-76-444 >>

(g)(1) The ~~Department~~ **Division** of Workforce Services shall work with local workforce offices to develop and administer services to Arkansas Work Pays Program participants designed to help them move into higher-paying jobs available in their regions.

SECTION 536. The introductory language of Arkansas Code § 20-76-444(g)(3), concerning the creation and duties of the Arkansas Work Pays Program, is amended to read as follows:

<< AR ST § 20-76-444 >>

(3) The ~~Department~~ **Division** of Workforce Services may make these services available to low-income workers who are not participating in the Arkansas Work Pays Program.

SECTION 537. Arkansas Code § 20-76-444(h)-(j), concerning the creation and duties of the Arkansas Work Pays Program, are amended to read as follows:

<< AR ST § 20-76-444 >>

(h) The ~~Department~~ **Division** of Workforce Services may contract with the Department of Human Services for administrative services related to eligibility and payments.

(i) The ~~Department~~ **Division** of Workforce Services shall make arrangements with the Department of Human Services to facilitate participants' enrollment in the Arkansas Work Pays Program after they leave the Transitional Employment Assistance Program.

(j)(1) The Department **Division** of Workforce Services shall promulgate rules establishing the Arkansas Work Pays Program.

(2) The rules shall be subject to review and recommendation by the board.

SECTION 538. Arkansas Code § 20–76–445(b)(1)(A), concerning the Career Pathways Initiative, is amended to read as follows:

<< AR ST § 20–76–445 >>

(b)(1)(A) The Department **Division** of Workforce Services, the Department of Higher Education, and the Arkansas Workforce Development Board shall work jointly to develop a plan for the Career Pathways Initiative.

SECTION 539. The introductory language of Arkansas Code § 20–76–445(d), concerning the Career Pathways Initiative, is amended to read as follows:

<< AR ST § 20–76–445 >>

(d) Under the initiative, the Department **Division** of Higher Education shall contract to provide education and training that will result in job training certificates or higher education degrees for Transitional Employment Assistance Program participants and other low-income adults with:

SECTION 540. Arkansas Code § 20–76–445(e)(2), concerning the Career Pathways Initiative, is amended to read as follows:

<< AR ST § 20–76–445 >>

(2) Applications shall be made to the Department **Division** of Higher Education.

SECTION 541. Arkansas Code § 20–76–445(f), concerning the Career Pathways Initiative, is amended to read as follows:

<< AR ST § 20–76–445 >>

(f) The Department **Division** of Higher Education shall determine which two-year college proposals are funded under the initiative.

SECTION 542. Arkansas Code § 20–76–446(a)(2), concerning the creation of the Community Investment Initiative, is amended to read as follows:

<< AR ST § 20–76–446 >>

(2) The Department **Division** of Workforce Services shall develop the initiative.

SECTION 543. Arkansas Code § 20–76–446(b), concerning the creation of the Community Investment Initiative, is amended to read as follows:

<< AR ST § 20–76–446 >>

(b) The department **division** shall contract with private or community organizations, including faith-based organizations, to offer services and support to parents, children, and youth in their communities.

SECTION 544. Arkansas Code § 20–76–446(d)(1), concerning the creation of the Community Investment Initiative, is amended to read as follows:

<< AR ST § 20–76–446 >>

(d)(1) The department **division** shall authorize contracts with state agencies or community organizations to provide training and capacity building services to organizations eligible to apply for initiative funds.

SECTION 545. Arkansas Code § 20–76–702(4)(B), concerning definitions for the Drug Screening and Testing Act of 2015, is amended to read as follows:

<< AR ST § 20–76–702 >>

(B) The Director of the Department **Division** of Workforce Services may add under the definition of subdivision (4)(A) of this section additional drugs by rule;

SECTION 546. Arkansas Code § 20–76–702(6), concerning definitions for the Drug Screening and Testing Act of 2015, is amended to read as follows:

<< AR ST § 20–76–702 >>

(6) “Drug testing agency” means an entity that has the required credentials as established by the Department **Division** of Workforce Services to administer drug tests using a person's urine, blood, or DNA that will detect and validate the presence of drugs in a person's body;

SECTION 547. Arkansas Code § 20–76–703(a)(1), concerning the administration of drug screening and testing program under the Temporary Assistance for Needy Families Program, is amended to read as follows:

<< AR ST § 20–76–703 >>

(a)(1) Subject to state appropriation, the Department **Division** of Workforce Services, in coordination with the Department of Human Services, shall establish and administer a drug screening and testing program of suspicion-based drug screening and testing for each applicant who is otherwise eligible for the Temporary Assistance for Needy Families Program, § 20–76–101 et seq., or its successor program and for each recipient of the Temporary Assistance for Needy Families Program, § 20–76–101 et seq., or its successor program.

SECTION 548. The introductory language of Arkansas Code § 20–76–704(a), concerning the powers and duties of the Department of Workforce Services in the administration of a drug screening and testing program under the Temporary Assistance for Needy Families Program, is amended to read as follows:

<< AR ST § 20–76–704 >>

(a) The Department **Division** of Workforce Services, in coordination with the Department of Human Services, shall:

SECTION 549. Arkansas Code § 20–76–704(a)(2), concerning the powers and duties of the Department of Workforce Services in the administration of a drug screening and testing program under the Temporary Assistance for Needy Families Program, is amended to read as follows:

<< AR ST § 20–76–704 >>

(2) Develop appropriate screening techniques and processes to establish reasonable cause that an applicant or recipient is using a drug and to establish the necessary criteria to permit the ~~Department~~ **Division** of Workforce Services, in coordination with the Department of Human Services, to require the applicant or recipient to undergo no less than a five-panel drug test;

SECTION 550. The introductory language of Arkansas Code § 20–76–704(b), concerning the powers and duties of the Department of Workforce Services in the administration of a drug screening and testing program under the Temporary Assistance for Needy Families Program, is amended to read as follows:

<< AR ST § 20–76–704 >>

(b) Annually, the ~~Department~~ **Division** of Workforce Services, in coordination with the Department of Human Services, shall submit a report of the past calendar year on or before February 1 to the General Assembly that includes without limitation:

SECTION 551. Arkansas Code § 20–76–704(b)(8), concerning the powers and duties of the Department of Workforce Services in the administration of a drug screening and testing program under the Temporary Assistance for Needy Families Program, is amended to read as follows:

<< AR ST § 20–76–704 >>

(8) The amount of costs incurred by the ~~department~~ **division** for the administration of the drug screening and testing program; and

SECTION 552. Arkansas Code § 20–76–705(1)(B), concerning standards in the drug screening and testing pilot program, is amended to read as follows:

<< AR ST § 20–76–705 >>

(B) If the result of the drug screening tool gives the ~~Department~~ **Division** of Workforce Services a reasonable suspicion to believe that the applicant or recipient has engaged in the use of drugs, then the applicant or recipient shall be required to take a drug test.

SECTION 553. 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:

<< AR ST § 20–76–705 >>

(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 554. Arkansas Code § 20-76-705(3)(A), concerning standards in the drug screening and testing pilot program, are amended to read as follows:

<< AR ST § 20-76-705 >>

(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 555. Arkansas Code § 20-76-705(5)(C), concerning standards in the drug screening and testing pilot program, are amended to read as follows:

<< AR ST § 20-76-705 >>

(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 556. Arkansas Code § 20-76-706(a), concerning information regarding drug testing, is amended to read as follows:

<< AR ST § 20-76-706 >>

(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 subchapter shall be confidential and not subject to disclosure and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings.

SECTION 557. Arkansas Code § 20-76-706(c)(1), concerning information regarding drug testing, is amended to read as follows:

<< AR ST § 20-76-706 >>

(1) The department **division** or a drug testing agency conducting the drug test from having access to an adult applicant's or adult recipient's drug test information or using the information when consulting with legal counsel in connection with actions brought under or related to this subchapter or when the information is relevant to its defense in a civil or administrative matter; or

SECTION 558. Arkansas Code § 20–76–708(a), concerning the rulemaking authority of the Director of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20–76–708 >>

(a) The Director of the ~~Department~~ **Division** of Workforce Services, in coordination with the Department of Human Services, shall promulgate rules necessary for the implementation of this subchapter.

SECTION 559. Arkansas Code § 20–77–2002(a)(5)(B)(vi), concerning the administration of the ARKids First Programs, is amended to read as follows:

<< AR ST § 20–77–2002 >>

(vi) The ~~Department~~ **Division** of Workforce Services database.

SECTION 560. Arkansas Code § 20–79–204 is amended to read as follows:

<< AR ST § 20–79–204 >>

20–79–204. Deputy director.

(a) ~~The~~ Arkansas Rehabilitation Services shall be administered, under the general supervision and direction of the ~~appropriate division~~ **Division of Workforce Services** of the ~~Department of Human Services~~, by a deputy director, appointed in accordance with established personnel standards and on the basis of education, training, experience, and demonstrated ability in the field of rehabilitation.

(b) In carrying out his or her duties under this subchapter, the deputy director:

(1) Shall, with the approval of the ~~Director~~ **Secretary** of the Department of ~~Human Services~~ **Commerce**, prepare regulations for promulgation by the appropriate division of the department governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, and investigation and determination thereof, for rehabilitation services, procedures for fair hearings, and such other regulations as he or she finds necessary to carry out the purposes of this subchapter, including the order to be followed in selecting those to whom rehabilitation services are to be provided in situations where service cannot be provided to all who are eligible for service;

(2) Shall, with the approval of the ~~director~~ **secretary**, establish appropriate subordinate administrative units within the Arkansas Rehabilitation Services;

(3) Shall recommend to the ~~director~~ **secretary** for appointment such personnel as he or she deems necessary for the efficient performance of the functions of the Arkansas Rehabilitation Services;

(4) Shall prepare and submit to the ~~director~~ **secretary** and the Governor annual reports of activities and expenditures and, prior to each regular session of the General Assembly, estimates of sums required to carry out this subchapter, as well as estimates of the amounts to be made available for this purpose from all sources;

(5) Shall make certification for disbursement, in accordance with regulations, of funds available for carrying out the purposes of this subchapter; and

(6) May, with the approval of the ~~director~~ **secretary**, delegate to any officer or employee of ~~the~~ Arkansas Rehabilitation Services such of his or her powers and duties, except the making of regulations and the making of recommendations for appointment of personnel, as he or she finds necessary to carry out the purposes of this subchapter.

SECTION 561. Arkansas Code § 20–86–105(a), concerning proposals for contracts with fiduciary organizations by the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20–86–105 >>

(a)(1) The ~~Department~~ **Division** of Workforce Services shall enter into contracts with one (1) or more fiduciary organizations pursuant to the provisions of this section in such a manner that different regions of the state are served by one (1) or more fiduciary organizations.

(2)(A) An organization based in this state which desires to enter into such a contract shall submit a proposal to the ~~department~~ **division** for the right to be approved as a fiduciary organization.

(B) Proposals shall be made upon forms prescribed by the ~~department~~ **division** and shall contain such information as the ~~department~~ **division** may require.

SECTION 562. The introductory language of Arkansas Code § 20–86–105(b), concerning proposals for contracts with fiduciary organizations by the Division of Workforce Services, is amended to read as follows:

<< AR ST § 20–86–105 >>

(b) Organizations' proposals shall be evaluated and contracts awarded by the ~~department~~ **division** on the basis of such items as geographic diversity and an organization's:

SECTION 563. Arkansas Code § 20–86–106(a)(1), concerning an individual development account, is amended to read as follows:

<< AR ST § 20–86–106 >>

(a)(1) An individual who is a resident of this state may submit an application to open an individual development account to a fiduciary organization approved by the ~~Department~~ **Division** of Workforce Services pursuant to the provisions of § 20–86–105.

SECTION 564. Arkansas Code § 20–86–109(d)(1)(B), concerning matching funds contributed to a fiduciary organization, is amended to read as follows:

<< AR ST § 20–86–109 >>

(B) The fiduciary organization shall then notify the ~~Department~~ **Division** of Workforce Services and request a certification from the ~~Department~~ **Division** of Workforce Services certifying the amount of the tax credit to which the taxpayer is entitled.

SECTION 565. Arkansas Code § 20–86–109(g), concerning matching funds contributed to a fiduciary organization, is amended to read as follows:

<< AR ST § 20–86–109 >>

(g) The ~~Department~~ **Division** of Workforce Services may monitor the use of these funds by fiduciary organizations.

SECTION 566. The introductory language of Arkansas Code § 20–86–111, concerning reporting requirements of fiduciary organizations, is amended to read as follows:

<< AR ST § 20–86–111 >>

Each fiduciary organization shall provide quarterly to the ~~Department~~ **Division** of Workforce Services the following information:

SECTION 567. Arkansas Code § 20–86–112 is amended to read as follows:

<< AR ST § 20–86–112 >>

20–86–112. Implementation.

The ~~Department~~ **Division** of Workforce Services shall be responsible for implementation of this subchapter and shall promulgate rules as necessary in accordance with the provisions of this subchapter.

SECTION 568. Arkansas Code § 20–86–113(a), concerning reports and recommendations of the Department of Workforce Services, is amended to read as follows:

<< AR ST § 20–86–113 >>

(a) The ~~Department~~ **Division** of Workforce Services shall prepare a written report annually regarding the implementation of this act and shall make recommendations for improving the program.

SECTION 569. Arkansas Code § 21–5–218 is amended to read as follows:

<< AR ST § 21–5–218 >>

21–5–218. Reimbursement for interpreter services for deaf.

Whereas the Arkansas Rehabilitation Services of the ~~Department of Career Education~~ currently purchases and sells staff interpreter services for the deaf with four (4) other agencies, the University of Arkansas at Fayetteville, the University of Arkansas at Little Rock, the Arkansas School for the Deaf, and the Administrative Office of the Courts and whereas the need for interpreters is immediate and often for crisis purposes and cannot be planned ahead, the ~~Department of Career Education~~ **Division of Workforce Services** is authorized to arrange for reimbursement with those agencies, assuring that the amount paid from both agencies will not exceed the maximum for the grades they occupy consistent with the intent of § 19–4–1604, with notification and justification to the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services**.

SECTION 570. Arkansas Code § 23–2–423(d), concerning the procedure for judicial review for orders of the Arkansas Public Service Commission, is amended to read as follows:

<< AR ST § 23–2–423 >>

(d) The Court of Appeals, on review, shall advance commission cases as matters of public interest over all other civil cases except child custody cases, and appeals under the Workers' Compensation Law, § 11–9–101 et seq., and the **Department Division** of Workforce Services Law, § 11–10–101 et seq.

SECTION 571. Arkansas Code § 23–35–201 is amended to read as follows:

<< AR ST § 23–35–201 >>

23–35–201. Credit Union Division — State Credit Union Supervisor — Staff.

There is created under the State Securities Department a Credit Union Division which shall be administered by the State Credit Union Supervisor. *The Securities Commissioner, in consultation with the Secretary of the Department of Commerce*, shall act as State Credit Union Supervisor. *The supervisor, in consultation with the Secretary of the Department of Commerce*, shall appoint such assistants, secretaries, **administrative assistants** and examiners as may be necessary to assist in the performance of his or her duties under this chapter.

SECTION 572. Arkansas Code § 23–37–206 is amended to read as follows:

<< AR ST § 23–37–206 >>

23–37–206. Division of Savings and Loan Associations — Supervisor — Staff.

(a) There is created a Division of Savings and Loan Associations of the State Securities Department which shall be administered by the Supervisor of Savings and Loan Associations.

(b)(1) *The Securities Commissioner, in consultation with the Secretary of the Department of Commerce*, shall act as Supervisor of Savings and Loan Associations. He or she may appoint an assistant securities commissioner responsible for financial institutions to act as the Assistant Supervisor of Savings and Loan Associations and perform all duties delegated by the commissioner.

(2) *The supervisor, in consultation with the Secretary of the Department of Commerce*, shall appoint any other assistants, secretaries, and examiners who may be necessary to assist in the performance of his or her duties under this chapter.

SECTION 573. Arkansas Code § 23–39–512(b)(2)(A), concerning exceptions to the public inspection of the records of the State Securities Department, is amended to read as follows:

<< AR ST § 23–39–512 >>

(A) Generally, records that reflect discussions between or consideration by the commissioner or members of his or her **the staff of the State Securities Department or the staff of the Department of Commerce working for the State Securities Department**, or both, of any action taken or proposed to be taken by the commissioner or by any members of his or her **the staff of the State Securities Department or the staff of the Department of Commerce working for the State Securities Department**; and

SECTION 574. Arkansas Code § 23–39–512(b)(3)(A) and (B), concerning exceptions to the public inspection of the records of the State Securities Department, are amended to read as follows:

<< AR ST § 23-39-512 >>

(A) Information concerning all employees of the State Securities Department **or the Department of Commerce working for the State Securities Department** and information concerning persons subject to regulation by the department; and

(B) Personal information about employees of mortgage brokers, mortgage bankers, mortgage servicers, or loan officers reported to the commissioner under the department's **State Securities Department** rules concerning registration of those persons;

SECTION 575. Arkansas Code § 23-42-201 is amended to read as follows:

<< AR ST § 23-42-201 >>

23-42-201. Administration by Securities Commissioner — Conflicts of interest.

(a)(1) This chapter shall be administered by the Securities Commissioner, who shall be appointed by the Governor and who shall serve at the pleasure of the Governor.

(2) The commissioner shall report to the Secretary of the Department of Commerce.

(b)(1) There is created within the Department of commerce the State Securities Department.

(2) The State Securities Department shall have all the powers and duties assigned pursuant to Acts 1983, No. 691, and all subsequent delegations of authority.

~~(b)~~ (c) No person shall serve in the State Securities Department **or in the Department of Commerce working for the State Securities Department** in any capacity who engages in any activities regulated under the provisions of this chapter.

SECTION 576. Arkansas Code § 23-42-203 is amended to read as follows:

<< AR ST § 23-42-203 >>

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 577. 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:

<< AR ST § 23-42-207 >>

(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 Department** and those concerning persons subject to regulation by employees of broker-dealers reported to the commissioner pursuant to the department's **State Securities Department's** rules concerning registration of broker-dealers and agents;

SECTION 578. Arkansas Code § 23-46-201 is amended to read as follows:

<< AR ST § 23-46-201 >>

23-46-201. Creation of State Bank Department.

There is created and established, at the seat of government of this state, a department to be known as the State Bank Department. **The State Bank Department shall be a division of the Department of Commerce.**

SECTION 579. Arkansas Code § 23-46-202 is repealed.

<< Repealed: AR ST § 23-46-202 >>

~~23-46-202. Offices.~~

~~(a) The State Bank Department may own, acquire, construct, reconstruct, extend, equip, improve, maintain, operate, lease, contract concerning, or otherwise deal in and with any lands, improvements, buildings, furniture, furnishings, machinery, and personal property of any and every nature whatever, that can be used by the department for suitable offices for the business of the department, with the necessary conveniences for the transaction of business and the safekeeping of the records of the department.~~

~~(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.~~

~~(c)(1) Bonds and interest on the bonds issued under this section shall be payable solely from and secured by a pledge of the fees and revenues deposited into an account designated as the State Bank Department Building Fund in accordance with § 23-46-209(a).~~

~~(2) The pledged fees and revenues are specifically declared to be cash funds, restricted in their use, and dedicated solely for the purposes set forth in this subchapter.~~

~~(3) The Arkansas Development Finance Authority is authorized and empowered to make a pledge of the fees and revenues in the resolution authorizing the issuance of the bonds under this section.~~

SECTION 580. Arkansas Code § 23–46–204 is amended to read as follows:

<< AR ST § 23–46–204 >>

23–46–204. Bank Commissioner — Appointment and removal.

(a) The Governor, by and with the advice and consent of the Senate, shall appoint a Bank Commissioner who shall:

- (1) Be a resident of this state;
- (2) Be at least thirty (30) years of age; and
- (3) Have not less than five (5) years' experience either in practical banking or in the bank department of a state.

(b) The commissioner shall be the head of the State Bank Department and shall hold his or her office for the term of four (4) years beginning from the date of actual appointment by the Governor and expiring four (4) years from that date and until a successor is appointed.

(c) The commissioner may be removed by the Governor from office for neglect of duty, malfeasance, misfeasance, extortion or corruption in office, incompetency, or mental or physical disability to such an extreme as to render the commissioner unable or unfit for the discharge of his or her duties, or for any offense involving moral turpitude while in office committed under color of or connected with such an office.

(d) In the event there shall be an inability to serve in the office caused by death, suspension, removal, disability, disqualification, or resignation of the commissioner, a deputy commissioner previously designated by the commissioner shall exercise the powers and perform the duties of the commissioner until a successor is appointed by the Governor, with the advice and consent of the Senate, who shall serve for the remainder of the unexpired term fixed by law.

(e) The commissioner shall report to the Secretary of the Department of Commerce.

SECTION 581. Arkansas Code § 23–46–205(d)(10), concerning the powers and duties of the Bank Commissioner, is amended to read as follows:

<< AR ST § 23–46–205 >>

(10)(A) Perform preemployment state criminal background checks through the ~~Department~~ **Division** of Arkansas State Police and preemployment federal criminal background checks through the Federal Bureau of Investigation on all applicants selected for employment as examiners with the State Bank Department.

(B) The federal background check shall include taking fingerprints of the applicant.

(C) The applicant shall sign a release authorizing the ~~Department~~ **Division** of Arkansas State Police and the Federal Bureau of Investigation to disclose criminal history information about the applicant to the State Bank Department.

(D) The commissioner shall treat the information as confidential and shall disclose the information only to the applicant; and

SECTION 582. Arkansas Code § 23–46–206 is amended to read as follows:

<< AR ST § 23–46–206 >>

23–46–206. Employment and duties of staff generally.

(a)(1) The Bank Commissioner, **in consultation with the Secretary of the Department of Commerce**, shall employ from time to time the assistants, examiners, clerks, stenographers, counsel, and other personnel as he or she may find necessary to properly and efficiently discharge the duties of his or her office.

(2) The commissioner shall be authorized to set minimum qualifications for these persons and to fix their levels of compensation within the limitations of the numbers of employees and the appropriations for their salaries as provided from time to time by acts of the General Assembly, provided he or she shall incur no expense until an appropriation shall have been made therefor nor in excess of the revenues of the State Bank Department.

(b) Counsel employed by the commissioner shall advise the commissioner in all legal matters affecting the **department State Bank Department**.

(c) Notwithstanding any other provisions of state law, and in order to maintain the confidentiality of information and the security of **department State Bank Department** personnel in the performance of their duties, the commissioner shall be authorized to establish travel reimbursement guidelines for payment of expenses of **department State Bank Department** personnel incurred in the performance of their duties.

(d) If the commissioner is not himself or herself at any time available for the transaction of any specific matter committed by law to his or her authority or discretion, any one of the deputy commissioners, or any other staff member so designated by the commissioner in writing, may transact such matter in the name and stead of the commissioner.

(e)(1) The commissioner, each member of the State Banking Board, the deputy commissioners, chief examiners, counsel, each examiner, each accountant, each attorney, and each other officer, person, or employee, or both, of or for the **department State Bank Department** shall not be personally liable for damages occasioned by his or her official acts or omissions, except when the acts or omissions are corrupt and malicious.

(2) The Attorney General shall defend any action brought against any of the above-mentioned persons by reason of his or her official acts or omissions, regardless of whether at the time of institution of the action the defendant has terminated his or her service with the **department State Bank Department**.

SECTION 583. Arkansas Code § 23–46–207(a)(1), concerning prohibited interests in financial institutions, is amended to read as follows:

<< AR ST § 23–46–207 >>

(a)(1) No employee or officer of the State Bank Department, **or employee or officer of the Department of Commerce working within the State Bank Department**, who participates in the examination of a financial institution, or who may be called upon to make an official decision or determination affecting the operation of a financial institution, shall be an officer, director, attorney, owner, or holder of stock in any state bank, registered out-of-state bank, or bank holding company which controls a state bank or a registered out-of-state bank, or receive, directly or indirectly, any payment or gratuity from any such organizations.

SECTION 584. Arkansas Code § 23-46-208 is repealed.

<< Repealed: AR ST § 23-46-208 >>

~~23-46-208. Employee bonds:~~

~~(a) All employees shall be required to furnish bonds in such amounts as the Bank Commissioner shall deem sufficient to cover the liabilities of their respective positions, which bonds may be made by any guaranty company authorized to do business in this state.~~

~~(b)(1) The fees paid by any officer or employee of the State Bank Department to any guaranty or bonding company for a fidelity bond shall be considered and charged as expenses of the department.~~

~~(2) However, the expense of any fidelity bond written on a special deputy commissioner appointed as special liquidating agent for an insolvent state bank or subsidiary trust company shall be paid out of the assets of the insolvent state bank or subsidiary trust company.~~

~~(c) No expense shall be incurred until an appropriation shall be made for such a purpose, and in no case shall any liability be created for the state in excess of the appropriation therefor.~~

SECTION 585. Arkansas Code § 23-46-209 is amended to read as follows:

<< AR ST § 23-46-209 >>

23-46-209. Records and financial reports — Disposition of funds.

(a)(1) The Bank Commissioner shall keep a true and perfect record of all of the business of the State Bank Department and shall make monthly reports to the Auditor of State of all fees he or she collects.

(2)(A) From the fees or other revenues collected, the commissioner:

(i) Shall deposit directly into the State Bank Department Building Fund the amount due, if any, for the annual rental under any lease or annual principal and interest payments under any bonds related to the acquisition of any properties under § 23-46-202; and

(ii) May deposit directly into the State Bank Department Building Fund an additional annual amount not to exceed ten percent (10%) of the original principal amount of any bonds related to the acquisition of any properties under § 23-46-202.

(B) The commissioner shall make the payments under this subdivision (a)(2) from the moneys received by the department prior to the payment of any of the moneys into the State Treasury.

(C) Upon the discharge of all bonds and leases authorized by § 23-46-202, the commissioner shall deposit into the State Bank Department Building Fund an amount deemed necessary by the commissioner for the operation and maintenance of the department's properties and the establishment and maintenance of appropriate reserves for the repair and replacement of the properties acquired under § 23-46-202.

(D) All fees collected by the commissioner required for the payments under this subdivision (a)(2) are specifically declared to be cash funds and may be collected and deposited into banks and depositories selected by the commissioner.

~~(3) The commissioner shall promptly pay to the Treasurer of State all fees not necessary for the payments required by subdivision (a)(2) of this section, taking duplicate receipts therefor, one (1) of which shall be filed with the Auditor of State.~~

(b) All fees and other revenues received by the department ~~not necessary for the payments required by subdivision (a)(2) of this section~~ shall be deposited into the State Treasury as special revenues and credited to the Bank Department Fund to be used solely for the payment of the expenses of the department pursuant to the appropriations therefor.

(c) Upon proper voucher from the commissioner, the Auditor of State shall issue the Auditor of State's warrant on the Treasurer of State in payment of all salaries and other expenses incurred in the administration of the Arkansas Banking Code of 1997.

SECTION 586. Arkansas Code § 23-46-210 is amended to read as follows:

<< AR ST § 23-46-210 >>

23-46-210. Annual and biennial reports of Bank Commissioner.

(a) The Bank Commissioner shall make an annual report to the ~~Governor~~ **Secretary of the Department of Commerce** of the work and the business of the State Bank Department, which shall embrace a statement of all receipts and expenditures and the name, officers, directors, domicile, capital, surplus, net profits, and deposits of each state bank, in the state, and such other information as the commissioner deems advisable.

(b) ~~He or she~~ **The commissioner** shall also, biennially, make a detailed estimate of the expenses of the department **State Bank Department** for the two (2) succeeding fiscal years.

SECTION 587. Arkansas Code § 23-46-303 is amended to read as follows:

<< AR ST § 23-46-303 >>

23-46-303. Study of banking statutes.

The State Banking Board is authorized, at such times as it deems appropriate, to request a review or study of state banking law and to recommend any changes that it may deem appropriate to the ~~Governor~~ **Secretary of the Department of Commerce**.

SECTION 588. Arkansas Code § 23-55-607(b)(2)(A), concerning confidentiality under the Uniform Money Services Act, is amended to read as follows:

<< AR ST § 23-55-607 >>

(A) Records that reflect discussions between or consideration by the commissioner or members of ~~his or her staff~~ **the staff of the State Securities Department or the staff of the Department of Commerce working for the State Securities Department**, or both, of any action taken or proposed to be taken by the commissioner or by any members of ~~his or her staff~~ **the staff of the State Securities Department or the staff of the Department of Commerce working for the State Securities Department**; and

SECTION 589. Arkansas Code § 23–55–607(b)(3)(A), concerning confidentiality under the Uniform Money Services Act, is amended to read as follows:

<< AR ST § 23–55–607 >>

(A) Information concerning all employees of the State Securities Department **or employees of the Department of Commerce working for the State Securities Department** and all persons subject to regulation by the ~~department~~ **State Securities Department**; and

SECTION 590. Arkansas Code § 23–61–101 is amended to read as follows:

<< AR ST § 23–61–101 >>

23–61–101. State Insurance Department — Continuation — Assignment of space.

(a)(1) There is ~~continued at the seat of government of this state an office or department designated~~ **created** as the State Insurance Department.

(2) The State Insurance Department is a division of the Department of Commerce.

(b) Suitable space shall be assigned for the use of the ~~department~~ **State Insurance Department**.

(c)(1)(A) The purpose of the ~~department~~ **State Insurance Department** is to serve and protect the public interest by the equitable enforcement of the state's laws and regulations affecting the insurance industry.

(B) The primary mission of the ~~department~~ **State Insurance Department** shall be consumer protection through insurer solvency and market conduct regulation, and fraud prosecution and deterrence.

(2) Nothing in this subsection shall be construed to limit the Insurance Commissioner's authority as enumerated in other provisions of the Arkansas Insurance Code.

SECTION 591. Arkansas Code § 23–61–102(a) and (b), concerning the Insurance Commissioner, are amended to read as follows:

<< AR ST § 23–61–102 >>

(a) The head of the State Insurance Department shall be an ~~an~~ **the** Insurance Commissioner appointed by the Governor with the advice and consent of the Senate. No person shall be eligible for appointment as commissioner unless a citizen of this state and at least thirty (30) years of age.

(b) The commissioner shall serve at the pleasure of the Governor **and shall report to the Secretary of the Department of Commerce**.

SECTION 592. Arkansas Code § 23–61–102(e)(2), concerning the Insurance Commissioner, is amended to read as follows:

<< AR ST § 23–61–102 >>

(2) The form and surety of the bond shall be subject to the approval of the Governor **Secretary of the Department of Commerce** and **the** Auditor of State.

SECTION 593. Arkansas Code § 23–61–104 is amended to read as follows:

<< AR ST § 23–61–104 >>

23–61–104. Deputies, assistants, and other employees — Appointment — Duties.

(a) *The Insurance Commissioner, in consultation with the Secretary of the Department of Commerce,* may appoint such assistants and deputies and such examiners, attorneys, clerks, stenographers, and other personnel as may be necessary to assist him or her in the discharge of the duties imposed upon him or her under the Arkansas Insurance Code and as may be authorized by law. All such personnel shall devote their entire business time to their duties in the State Insurance Department.

(b) *The commissioner, in consultation with the Secretary of the Department of Commerce,* may employ an actuary on a consulting or full-time basis to perform such duties as the commissioner may designate.

(c) *The commissioner, in consultation with the Secretary of the Department of Commerce,* may at any time terminate the appointment, designation, or employment of any assistant, deputy, examiner, attorney, actuary, clerk, or other employee.

(d) The compensation for all such personnel so appointed or employed shall be as fixed by law.

(e) *The commissioner, in consultation with the Secretary of the Department of Commerce,* may contract for and procure on a basis of fee such independently contracting examination, actuarial, technical, and other professional services as he or she may from time to time require for the discharge of his or her duties.

SECTION 594. Arkansas Code § 23–61–105 is amended to read as follows:

<< AR ST § 23–61–105 >>

23–61–105. Insurance Commissioner, deputies, assistants, and other employees — Expense allowance.

(a) In addition to compensation for their services, the Insurance Commissioner, his or her deputies, assistants, and other **Department of Commerce** employees **performing duties or working within the State Insurance Department** shall be paid their actual and necessary expenses as authorized by the commissioner and incurred by them in the performance of their duties, subject to such limitations as may be otherwise applicable pursuant to law.

(b) An itemized statement of all expenses for which payment is being claimed shall be certified by the claimant and attached to the expense voucher.

SECTION 595. Arkansas Code § 23–61–106 is amended to read as follows:

<< AR ST § 23–61–106 >>

23–61–106. Insurance Commissioner, deputies, assistants, and other employees — Financial interest prohibited — Exception.

(a) The Insurance Commissioner, ~~or~~ any deputy, examiner, assistant, or employee of the commissioner, **or any employee of the Department of Commerce working for the State Insurance Department** shall not be financially interested, directly or indirectly, in any insurer, insurance agency, or insurance transaction, except as:

- (1) A policyholder or claimant under a policy;
- (2) A grantor of a mortgage or similar instrument on the person's residence to an entity regulated under the Arkansas Insurance Code if done under customary terms and in the ordinary course of business; or
- (3) A settlor or beneficiary of a blind trust into which any otherwise impermissible holdings have been placed, provided that the commissioner may make reasonable exceptions upon full and complete written disclosure to the commissioner of the exact nature and extent of the otherwise impermissible financial interest and adhering to any and all reasonable restrictions as the commissioner may impose upon the terms and conditions of employment.

(b) Notwithstanding the requirements of subsection (a) of this section, the commissioner may employ or retain, from time to time, insurance actuaries, technicians, or other professional personnel who are independently practicing their professions even though similarly employed or retained by insurers or others.

(c) The commissioner, ~~or~~ any assistant, deputy, examiner, or other employee of the commissioner, **or any employee of the Department of Commerce working for the State Insurance Department** shall not be given nor receive any fee, compensation, loan, gift, or other thing of value in addition to the compensation and expense allowance provided pursuant to law for any service rendered or to be rendered as commissioner, deputy, examiner, or employee, or in connection therewith.

SECTION 596. Arkansas Code § 23-61-108(a)(1), concerning the rules and regulations to effectuate the Arkansas Insurance Code, is amended to read as follows:

<< AR ST § 23-61-108 >>

(a)(1) *The Insurance Commissioner, in consultation with the Secretary of the Department of Commerce,* may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Arkansas Insurance Code.

SECTION 597. Arkansas Code § 23-61-108(b)(1), concerning the rules and regulations to effectuate the Arkansas Insurance Code, is amended to read as follows:

<< AR ST § 23-61-108 >>

(b)(1) *The commissioner, in consultation with the Secretary of the Department of Commerce,* shall have the authority to promulgate rules and regulations necessary for the effective regulation of the business of insurance or as required for this state to be in compliance with federal laws.

SECTION 598. Arkansas Code § 23-61-112(a), concerning the annual report of the Insurance Commissioner, is amended to read as follows:

<< AR ST § 23-61-112 >>

(a) As early in the calendar year as reasonably possible, the Insurance Commissioner annually shall prepare and deliver a report to the Governor **Secretary of the Department of Commerce** showing, with respect to the preceding calendar year:

- (1) Names of the authorized insurers transacting insurance in this state, with a summary of their financial statements that the commissioner considers proper;

- (2) Names of admitted insurers that closed during the year or entered liquidation, a concise statement concerning the cause for each proceeding, and the amount of assets and liabilities as ascertainable;
- (3) The total receipts and expenses of the State Insurance Department for the year; and
- (4) Other pertinent information and matters the commissioner considers proper.

SECTION 599. Arkansas Code § 23–61–116 is amended to read as follows:

<< AR ST § 23–61–116 >>

23–61–116. Annual report on health insurance fraud.

Annually on or before March 1, the Insurance Commissioner shall submit to the ~~Governor~~ **Secretary of the Department of Commerce**, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Attorney General a report summarizing the State Insurance Department's activities to investigate and combat health insurance fraud, including without limitation information regarding:

- (1) Referrals received;
- (2) Investigations initiated;
- (3) Investigations completed; and
- (4) Other material necessary or desirable to evaluate the department's efforts under this section.

SECTION 600. Arkansas Code § 23–61–1004(c), concerning the administration of the Arkansas Works Program, is amended to read as follows:

<< AR ST § 23–61–1004 >>

(c) The Department of Human Services, the State Insurance Department, the ~~Department~~ **Division** of Workforce Services, and other necessary state agencies shall promulgate and administer rules to implement the Arkansas Works Program.

SECTION 601. The introductory language of Arkansas Code § 23–61–1004(g)(1), concerning the administration of the Arkansas Works Program, is amended to read as follows:

<< AR ST § 23–61–1004 >>

(g)(1) On a quarterly basis, the Department of Human Services, the State Insurance Department, the ~~Department~~ **Division** of Workforce Services, and other necessary state agencies shall report to the Legislative Council, or to the Joint Budget Committee if the General Assembly is in session, available information regarding the overall Arkansas Works Program, including without limitation:

SECTION 602. The introductory language of Arkansas Code § 23–61–1005(b)(1), concerning requirements for eligible individuals, is amended to read as follows:

<< AR ST § 23–61–1005 >>

(b)(1) An eligible individual who has up to fifty percent (50%) of the federal poverty level at the time of an eligibility determination shall be referred to the Department **Division** of Workforce Services to:

SECTION 603. Arkansas Code § 23–61–1005(b)(2), concerning requirements for eligible individuals, is amended to read as follows:

<< AR ST § 23–61–1005 >>

(2) The Department of Human Services or its designee shall provide work training opportunities, outreach, and education about work and work training opportunities through the Department **Division** of Workforce Services to all eligible individuals regardless of income at the time of an eligibility determination.

SECTION 604. Arkansas Code § 23–61–1103(c)–(e), concerning the powers and duties of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, are amended to read as follows:

<< AR ST § 23–61–1103 >>

(c)(1) The commissioner, **in consultation with the Secretary of the Department of Commerce**, may appoint assistants and deputies and examiners, inspectors, attorneys, clerks, stenographers, and other personnel as may be necessary to assist him or her in the discharge of the duties imposed upon him or her in overseeing the board.

(2) Personnel under subdivision (c)(1) of this section shall devote their entire business time to carrying out official duties concerning the board, or if appropriate, the State Insurance Department.

(d) The powers and authority under subsection (a) of this section shall not be in diminution or limitation of the powers and authority vested in the board by the various sections of this subchapter, but the board shall possess all powers and authority, whether set forth in this section or not, to enable it to carry out the intent and purpose of this subchapter.

(e)(1) The board, when it shall deem necessary, shall be represented by the department **State Insurance Department**.

(2)(A) If deemed necessary by the board, the board may employ special counsel whose services shall be paid for from funds of the board.

(B) Special counsel shall be retained only with the prior approval of the commissioner.

SECTION 605. Arkansas Code § 23–61–1104(a)(1), concerning the Executive Secretary of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, is amended to read as follows:

<< AR ST § 23–61–1104 >>

(a)(1) The Insurance Commissioner, **in consultation with the Secretary of the Department of Commerce**, may appoint and employ a person as the Executive Secretary of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services who shall serve at the pleasure of the commissioner.

SECTION 606. Arkansas Code § 23–61–1106(a)(1), concerning the Inspector of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services and funeral directing, embalming, cremating, or transferring human remains, is amended to read as follows:

<< AR ST § 23-61-1106 >>

(a)(1) The Insurance Commissioner may appoint **request that the Department of Commerce employ** an agent or agents as Inspector of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

SECTION 607. Arkansas Code § 23-92-403(f), concerning the relationship of the Arkansas Professional Employer Organization Recognition and Licensing Act to other laws, is amended to read as follows:

<< AR ST § 23-92-403 >>

(f)(1) Applicants for licensing or a professional employer organization licensed under this subchapter authorize the ~~Department~~ **Division** of Workforce Services, the Workers' Compensation Commission, and the State Insurance Department, or their successors, to release otherwise confidential information to the other departments or commission in this subdivision (f)(1) concerning the applicant or professional employer organization upon the written request by the requesting department or commission.

(2) The ~~Department~~ **Division** of Workforce Services, the Workers' Compensation Commission, and the State Insurance Department shall maintain the confidentiality of information received under subdivision (f)(1) of this section unless the information is introduced into evidence at an administrative proceeding or at a civil or criminal trial arising out of a violation of this subchapter that involves the applicant, the professional employer organization, or the controlling person.

SECTION 608. Arkansas Code § 23-92-403(g)(2)(A), concerning the relationship of the Arkansas Professional Employer Organization Recognition and Licensing Act to other laws, is amended to read as follows:

<< AR ST § 23-92-403 >>

(A) Section 11-2-101 et seq., § 11-3-101 et seq., § 11-4-101 et seq., § 11-5-101 et seq., § 11-6-101 et seq., § 11-7-201 et seq., the ~~Department~~ **Division** of Workforce Services Law, § 11-10-101 et seq., and § 11-12-101 et seq.;

SECTION 609. Arkansas Code § 23-92-404(d)(3)(B)(ii)(d), concerning licensing and renewal under the Arkansas Professional Employer Organization Recognition and Licensing Act, is amended to read as follows:

<< AR ST § 23-92-404 >>

(d) The commissioner shall provide a copy of the order entered under subdivision (d)(3)(B)(ii)(a) of this section to the Workers' Compensation Commission and the ~~Department~~ **Division** of Workforce Services or their successors.

SECTION 610. Arkansas Code § 23-92-409(j)(2), concerning the coemployment relationship between the client and the professional employer organization and each coemployer governed by a professional employer agreement, is amended to read as follows:

<< AR ST § 23-92-409 >>

(2) Pay unemployment taxes as required by the ~~Department~~ **Division** of Workforce Services Law, § 11-10-101 et seq.;

SECTION 611. Arkansas Code § 23-92-413(b), concerning nondisclosure of proprietary information, is amended to read as follows:

<< AR ST § 23-92-413 >>

(b) Notwithstanding subsection (a) of this section or any other law governing disclosure of confidential information, the commissioner, the Director of the ~~Department~~ **Division** of Workforce Services, and the Workers' Compensation Commission may exchange information among themselves for the purposes of regulating professional employer organizations.

SECTION 612. Arkansas Code § 23-98-108(e), concerning payroll deduction and a notice of minimum basic benefit policies, is amended to read as follows:

<< AR ST § 23-98-108 >>

(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 613. 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:

<< AR ST § 25-10-205 >>

(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 614. Arkansas Code § 25-10-206 is amended to read as follows:

<< AR ST § 25-10-206 >>

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 615. Arkansas Code § 25-10-207 is amended to read as follows:

<< AR ST § 25–10–207 >>

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 assigned to it in this subchapter.

SECTION 616. Arkansas Code § 25–10–208 is amended to read as follows:

<< AR ST § 25–10–208 >>

25–10–208. State services for the blind — Supplemental insurance.

Staff members who transport blind and visually impaired persons on official state business of the Division of State Services for the Blind within the Department of ~~Human Services~~ **Commerce** are entitled to reimbursement for supplemental insurance costs. Costs incurred for supplemental liability automobile insurance above the minimum required by law for the purpose of including coverage for work-related activities shall be reimbursed through standard travel procedures annually, not to exceed fifty dollars (\$50.00) per year.

SECTION 617. Arkansas Code § 25–10–209(a), concerning the creation of Information Reading Services for the Blind, is amended to read as follows:

<< AR ST § 25–10–209 >>

(a) ~~The~~ Information Reading Services for the Blind is created within the Division of State Services for the Blind of the Department of ~~Human Services~~ **Commerce**.

SECTION 618. Arkansas Code § 25–10–209(d), concerning the creation of Information Reading Services for the Blind, is amended to read as follows:

<< AR ST § 25–10–209 >>

(d) The Director of the Division of State Services for the Blind of the Department of ~~Human Services~~ **Commerce** shall consult at least annually with active consumers of Information Reading Services for the Blind, including participating state agencies, in the design, improvement, and delivery of the services.

SECTION 619. Arkansas Code § 25–11–101 is amended to read as follows:

<< AR ST § 25–11–101 >>

25–11–101. Creation — Director — Organization — Personnel.

(a) There is created the Arkansas Economic Development Commission.

(b)(1) The executive head of the commission shall be the Director of the Arkansas Economic Development Commission. The director shall be appointed by the Governor, with the advice of the Arkansas Economic Development Council and the consent of the Senate, and shall serve at the pleasure of the Governor.

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

(c) The commission shall consist of the divisions that may be necessary to fulfill its purposes and that may be created by law and placed under the commission.

(d) The director, with the advice and consent of the Governor, shall appoint the heads of the respective divisions. All other personnel of the commission shall be employed by and shall serve at the pleasure of the director. However, nothing in this section shall be so construed as to reduce any right that an employee of the commission shall have under any civil service or merit system.

(e) Each division of the commission 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 commission as he or she shall deem desirable and necessary for the effective and efficient operation of the commission.

(f) All personnel of the commission are employees of the Department of Commerce.

SECTION 620. Arkansas Code § 25–15–202(1)(B), concerning the definition of “adjudication” under the Arkansas Administrative Procedure Act, is amended to read as follows:

<< AR ST § 25–15–202 >>

(B) “Adjudication” does not include inmate disciplinary proceedings conducted by the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction;

SECTION 621. Arkansas Code § 25–15–202(2)(C), concerning the definition of “agency” under the Arkansas Administrative Procedure Act, is amended to read as follows:

<< AR ST § 25–15–202 >>

(C) The word “agency” shall not include the Arkansas Public Service Commission, the Arkansas Pollution Control and Ecology Commission, the Workers' Compensation Commission, and the ~~Department~~ **Division** of Workforce Services, as the existing laws governing those agencies provide adequate administrative procedures for those agencies.

SECTION 622. Arkansas Code § 25–29–110 is amended to read as follows:

<< AR ST § 25–29–110 >>

25–29–110. Annual report.

The Board of Directors of the Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation shall transmit to the Legislative Council, the ~~Governor~~ **Secretary of the Department of Commerce**, and the Arkansas Public Service Commission an annual report of its activities. The annual report shall be filed by March 31 of each year.

SECTION 623. Arkansas Code § 25–30–101(b)(2)(A)–(C), concerning creation and membership of the Career Education and Workforce Development Board, are amended to read as follows:

<< AR ST § 25–30–101 >>

(A) The Commissioner of **Elementary and Secondary** Education;

(B) The Director of the ~~Department~~ **Division** of Higher Education;

(C) The ~~Executive~~ Director of the Arkansas Community Colleges;

SECTION 624. Arkansas Code § 25–30–101(b)(2)(E), concerning creation and membership of the Career Education and Workforce Development Board, is amended to read as follows:

<< AR ST § 25–30–101 >>

(E) The Director of the ~~Department~~ **Division** of Workforce Services;

SECTION 625. Arkansas Code § 25–30–109(a)(1) and (2), concerning the creation and duties of the Office of Skills Development, are amended to read as follows:

<< AR ST § 25–30–109 >>

(a)(1) There is created within the ~~Department of Career Education under the oversight of the Career Education and Workforce Development Board~~ an **Department of Commerce** the Office of Skills Development.

(2)(A) The Director of the Office of Skills Development shall be appointed by the ~~Director of the Department of Career Education~~ **Secretary of the Department of Commerce** in consultation with the Career Education and Workforce Development Board.

(B) The Director of the ~~Department of Career Education~~ **Office of Skills Development** may hire personnel necessary to carry out the duties of the office.

SECTION 626. Arkansas Code § 25–30–109(b)(7), concerning the creation and duties of the Office of Skills Development, is amended to read as follows:

<< AR ST § 25–30–109 >>

(7)(A) Use the ~~Department of Career Education and other~~ available labor market information systems to collect, analyze, and disseminate information on current and projected employment opportunities in this state and other appropriate information relating to labor market dynamics as determined by the office.

(B) The office shall make the information contained in the labor market information system available on the ~~Department of Career Education's~~ **Office of Skills Development's** website.

SECTION 627. Arkansas Code § 25–30–202(b), concerning the scope of authority of the Rehabilitation Act of Arkansas, is amended to read as follows:

<< AR ST § 25–30–202 >>

(b) Any and all statutory authority, powers, duties, functions, records, authorized positions, property, unexpended balances of appropriations, allocations, or other funds transferred from the Division of Rehabilitation Services to the Department of Human Services by Acts 1985, No. 348, are hereby transferred to Arkansas Rehabilitation Services of the Department of Career Education .

SECTION 628. Arkansas Code § 25–30–203(a), concerning the powers and duties of the State Board of Career Education, is amended to read as follows:

<< AR ST § 25–30–203 >>

(a) ~~The State Board of Career Education~~ **Division of Workforce Services**, through the Arkansas Rehabilitation Services of the Department of Career Education , shall provide the rehabilitation services authorized by this subchapter to eligible physically or mentally disabled individuals and those who can benefit from vocational rehabilitation and independent living services, as determined by the agency to be eligible therefor.

SECTION 629. Arkansas Code § 25–30–205 is amended to read as follows:

<< AR ST § 25–30–205 >>

25–30–205. Office facilities.

The Building Authority Division of the Department of Finance and Administration shall ensure that all offices of Arkansas Rehabilitation Services of the Department of Career Education are exemplary models of accessibility and conform to the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., accessibility guidelines.

SECTION 630. Arkansas Code § 25–30–206(b)(1), concerning the creation of the Arkansas Rehabilitation Services Forgiveness of Student Loan Program, is amended to read as follows:

<< AR ST § 25–30–206 >>

(b)(1) The program shall be administered by the Arkansas Rehabilitation Services of the Department of Career Education .

SECTION 631. Arkansas Code § 26–51–505(e)(2), concerning the establishment or expansion of a manufacturing enterprise, is amended to read as follows:

<< AR ST § 26–51–505 >>

(2) The division **Revenue Division of the Department of Finance and Administration** shall consult with the Department **Division** of Workforce Services and the Arkansas Economic Development Council during the promulgation of the rules and regulations.

SECTION 632. Arkansas Code § 26–51–815(d)(2)(D), concerning the definition of “qualified technology incubator” under the laws regarding computing capital gains and losses, is amended to read as follows:

<< AR ST § 26–51–815 >>

(D) “Qualified technology incubator” means a business incubator certified by the Executive Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission as being a facility operated in cooperation with an Arkansas college or university to foster the growth of technology-based enterprises.

SECTION 633. Arkansas Code § 26–51–1102(c)(2)(A), concerning the granting of a tax credit for donations of new machinery or equipment by taxpayer to an educational institution, is amended to read as follows:

<< AR ST § 26–51–1102 >>

(A) Be consistent with the research and development plan approved by the Executive Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, as evidenced by a letter of support from the executive director; and

SECTION 634. Arkansas Code § 27–115–101 is amended to read as follows:

<< AR ST § 27–115–101 >>

27–115–101. Creation.

There is created a commission to be known as the “Arkansas Department **Division** of Aeronautics”, which shall maintain an office in the City of Little Rock.

SECTION 635. Arkansas Code § 27–115–102 is amended to read as follows:

<< AR ST § 27–115–102 >>

27–115–102. Purpose.

The Arkansas Department **Division** of Aeronautics is established and authorized to represent the State of Arkansas in the promotion and development of landing fields, airports, hangars, and other aeronautical projects and to cooperate with and secure the cooperation of the Federal Aviation Administration and any other duly authorized federal agencies interested in the development of aeronautics.

SECTION 636. Arkansas Code § 27–115–103(a), concerning the Arkansas Department of Aeronautics, is amended to read as follows:

<< AR ST § 27–115–103 >>

(a) The Arkansas Department **Division** of Aeronautics shall be composed of seven (7) members appointed by the Governor.

SECTION 637. Arkansas Code § 27–115–104 is amended to read as follows:

<< AR ST § 27–115–104 >>

27–115–104. Director.

Any person employed as Director of the ~~Arkansas Department~~ **Division** of Aeronautics shall possess the qualifications of a multi-engine commercial pilot. No other flight or pilot qualification shall be required for such director.

SECTION 638. Arkansas Code § 27-115-105 is amended to read as follows:

<< AR ST § 27-115-105 >>

27-115-105. Secretary ~~Director~~.

(a) The Secretary **Director** of the ~~Arkansas Department~~ **Division** of Aeronautics, ~~or the administrative head of the department,~~ shall be appointed by the department **Secretary of the Department of Commerce** with the approval of the Governor and shall serve at the pleasure of the Governor.

(b) **The director shall report to the secretary.**

SECTION 639. Arkansas Code § 27-115-106 is amended to read as follows:

<< AR ST § 27-115-106 >>

27-115-106. Administration — Promulgation of rules and regulations.

The ~~Arkansas Department~~ **Division** of Aeronautics shall administer the provisions of this chapter and § 27-116-101 et seq. and is authorized and *directed to promulgate rules, in consultation with the Secretary of the Department of Commerce,* as necessary to execute the powers invested in it **the division** by this chapter and § 27-116-101 et seq. and other applicable laws.

SECTION 640. Arkansas Code § 27-115-107 is amended to read as follows:

<< AR ST § 27-115-107 >>

27-115-107. Powers generally.

(a) The ~~Arkansas Department~~ **Division** of Aeronautics shall have the right to:

- (1) Receive grants and donations, appropriations, and other funds or materials on behalf of the state, ~~or any~~ county, ~~or~~ municipality, **or other eligible applicants** for utilization in the development of aeronautics, provided that the ~~department~~ **division** shall not have the right to use the funds received for a particular purpose for any other purpose without the consent of the person or agency providing the particular funds; and
- (2) Plan and lay out a state system of landing fields, airports, and airways and to inspect them and to close any landing field or airport found to be unsafe.

(b) The ~~department~~ **division** is authorized:

- (1) To accept as a loan or a gift any aircraft made available for its use by the federal government or any agency thereof; or
- (2) To match any funds made available by the federal government, any agency thereof, or any person or corporation with any moneys available to the ~~department~~ **division** for the purpose of acquiring any aircraft which it may deem necessary to the proper performance of its duties as provided by law.

SECTION 641. Arkansas Code § 27–115–108 is amended to read as follows:

<< AR ST § 27–115–108 >>

27–115–108. Duties generally.

(a) It shall be the duty of the ~~Arkansas Department~~ **Division** of Aeronautics to:

(1) Provide for the examination, rating, and licensing of airports, landing fields, and air navigation facilities available for the use of aircraft;

(2) *Adopt, in consultation with the Secretary of the Department of Commerce,* rules and regulations for the issuance, expiration, suspension, or revocation of licenses of airports, landing fields, and air navigation facilities, and of other licenses or certificates that the ~~department~~ **division** deems necessary in administering the functions vested in the ~~department~~ **division** under this chapter and § 27–116–101 et seq.;

(3) Establish, set apart, and provide for the protection of necessary air space reservations within the state in addition to and not in conflict with air space reservations established by the President of the United States or any department of the United States or with any civil or military airway designated under the provisions of the Air Commerce Act of 1926 and the amendments thereto, or other act of Congress pertaining thereto;

(4) Designate, establish, and chart civil airways within, over, and above the lands or waters of the state and arrange for publication of maps of such airways, utilizing the facilities and assistance of existing agencies of the state as far as practicable. The ~~department~~ **division** shall grant no exclusive right for the use of any civil airway, airport, intermediate landing field, or other air navigation facility under its jurisdiction;

(5) Investigate, record, and report the causes of accidents in civil air navigation within this state;

(6) Encourage the establishment of airports, civil airways, and other air navigation facilities;

(7) Supervise and regulate the safety, adequacy, and sufficiency of all airports, landing fields, and air navigation facilities and equipment used or to be used in private or commercial flying;

(8) *Adopt, in consultation with the Secretary of the Department of Commerce,* rules and regulations governing instruction in flight or ground school offered to student fliers or mechanics when the instruction is conducted by individual flight instructors licensed under appropriate Federal Aviation Administration regulations and adopt rules and regulations governing the safety, adequacy, and sufficiency of airports, landing fields, and air navigation facilities and equipment used or to be used in the instruction of student fliers or mechanics;

(9) *Adopt, in consultation with the Secretary of the Department of Commerce,* rules and regulations for the marking of highways, municipalities, and all other serial markings used throughout the state;

(10) *Adopt, in consultation with the Secretary of the Department of Commerce,* rules and regulations governing the erection, location, and maintenance of aerial beacon lights and other aerial night lighting equipment within the state;

(11) Exchange with the Federal Aviation Administration and other state governments through existing governmental channels information pertaining to civil air navigation;

(12) Enforce the regulations and air traffic rules, promulgated as provided hereunder, through the assistance and cooperation of state and local authorities charged with the enforcement of law in their respective jurisdictions;

(13) *Establish by rule, in consultation with the Secretary of the Department of Commerce,* the minimum safe altitudes for flight, including air traffic rules; and

(14) Establish, *in consultation with the Secretary of the Department of Commerce*, posting requirements for compliance with § 12–19–102, concerning the posting of information about the National Human Trafficking Resource Center Hotline.

(b) All rules and regulations prescribed by the ~~department~~ **division** under the authority of this section shall be consistent with and conform to current federal legislation governing aeronautics and the regulations duly promulgated thereunder and rules issued from time to time pursuant thereto. Nothing in this section shall confer upon the ~~department~~ **division** the power to determine schedules, issue stock, or determine public convenience or the adequacy and sufficiency of service of common carriers engaged in commercial flying within this state.

SECTION 642. Arkansas Code § 27–115–109 is amended to read as follows:

<< AR ST § 27–115–109 >>

27–115–109. Location and construction of landing fields.

(a) The ~~Arkansas Department~~ **Division** of Aeronautics shall assist in the location of landing fields and the promotion and development of aeronautics throughout the state.

(b) The ~~Arkansas Department of Aeronautics~~ **division** may use for the construction and development of these fields and for the grading and construction of highways leading thereto, any equipment of the Arkansas Department of Transportation which is not at that time required for other construction purposes.

SECTION 643. Arkansas Code § 27–115–110 is amended to read as follows:

<< AR ST § 27–115–110 >>

27–115–110. Disposition of funds.

(a) All revenues derived from the levying of the Arkansas Gross Receipts Tax, as amended, § 26–52–101 et seq., upon aircraft and aviation fuel, aviation services, aircraft parts and accessories, and other gross receipts taxes remitted by aircraft dealers, airports, and flying fields shall be reported to the ~~Director~~ **Secretary** of the Department of Finance and Administration in a manner and on forms as he or she shall direct.

(b) The ~~Arkansas Department~~ **Division** of Aeronautics is authorized to accept donations and grants of all property, whether real or personal.

(c) Tax proceeds and grants and donations of money shall be special revenues and shall be deposited in the State Treasury to the credit of the ~~Arkansas Department~~ **Division** of Aeronautics Fund to be used for constructing and improving airports, civil airways, and other air navigation facilities and for preserving the history of aviation in the state.

(d) The ~~Arkansas Department of Aeronautics~~ **division** shall administer the funds so deposited and shall use the funds for the sole purpose of building airports, civil airways, and other air navigation facilities in this state in those cities or towns as the ~~Arkansas Department of Aeronautics~~ **division**, in coordination with the Arkansas Economic Development Council, shall determine would attract the greatest volume of industry to this state.

(e) The funds may also be used for the purpose of:

(1) Matching funds with any federal funds made available for the purpose of this section; **or**

(2)(**A**) Establishing an aviation museum to preserve the history of aviation in the state.

(B) Assistance for the establishment of an aviation museum shall not exceed a total of twenty thousand dollars (\$20,000).

(f)(1) All revenues derived from the levying of the compensating use tax under the Arkansas Compensating Tax Act of 1949, § 26–53–101 et seq., upon aircraft and aviation fuel, aviation services, and aircraft parts and accessories remitted by aircraft dealers, airports, and flying fields shall be reported to the Director of the ~~Arkansas Department~~ **Division** of Aeronautics in a manner and on forms as he or she shall direct.

(2) ~~The first eight hundred thousand dollars (\$800,000) of the state use tax collected after June 30, 1997, and collected through June 30, 1998, shall be deposited in the State Treasury as general revenues. The remainder of the revenues collected during this period shall be special revenues and shall be deposited in the State Treasury to the credit of the fund to be used for the purposes set forth in this subsection.~~

(3) ~~The first eight hundred thousand dollars (\$800,000) of the state use tax collected after June 30, 1998, and collected through June 30, 1999, shall be deposited in the State Treasury as general revenues. The remainder of the revenues collected during this period shall be special revenues and shall be deposited in the State Treasury to the credit of the fund to be used for the purposes set forth in this subsection.~~

(4) ~~The first four hundred thousand dollars (\$400,000) of the state use tax collected after June 30, 1999, and collected through June 30, 2000, shall be deposited in the State Treasury as general revenues. The remainder of the revenues collected during this period shall be special revenues and shall be deposited in the State Treasury to the credit of the fund to be used for the purposes set forth in this subsection.~~

(5) ~~The first two hundred thousand dollars (\$200,000) of the state use tax collected after June 30, 2000, and collected through June 30, 2001, shall be deposited in the State Treasury as general revenues. The remainder of the revenues collected during this period shall be special revenues and shall be deposited in the State Treasury to the credit of the fund to be used for the purposes set forth in this subsection.~~

(6) Beginning July 1, 2001, all **All** state use tax derived shall be special revenues and shall be deposited in the State Treasury to the credit of the fund to be used for the purposes set forth in this subsection.

SECTION 644. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 4 — Department of Corrections

<< AR ST § 25–43–401 >>

25–43–401. Department of Corrections.

(a) There is created the Department of Corrections as a cabinet-level department.

(b)(1) The Board of Corrections:

(A) Is affiliated with the department;

(B) Shall be the governing authority of the department; and

(C) Shall perform all functions with respect to the management and control of the department as contemplated by Arkansas Constitution, Amendment 33.

(2) No provision of the Transformation and Efficiencies Act of 2019 shall abridge, diminish, or curtail, in any respect, the authority vested in the board to govern and supervise the administration of the board's responsibilities prior to the

effective date of this act, including without limitation governing and supervising the administration of the state correctional institutions.

(c) The department shall:

- (1) Maintain and administer real property on behalf of each state entity transferred under this chapter if the real property is not under the supervision and control of the board; and
- (2) Maintain and administer all personal property on behalf of each state entity transferred under this chapter.

(d) The department shall:

- (1) Assist the board with developing a biennial budget and annual, quarterly, and monthly fiscal plans for the operation of the board and assist the board in complying with the budget and fiscal policies promulgated by the Secretary of the Department of Corrections;
- (2) Assist the board with complying with the general guidelines, polices, and rules of the department with respect to personnel and personnel policies, records, purchasing, bookkeeping, and other administrative procedures prescribed by the department;
- (3) Consult with the board regarding personnel decisions and staffing; and
- (4) Coordinate the policies promulgated by the board for the administration of personnel and personnel records to assure that all employee records and personnel records of the board conform to the personnel policies and practices of the department.

<< AR ST § 25-43-402 >>

25-43-402. State entities transferred to Department of Corrections.

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

- (1) The Arkansas Sentencing Commission, created under § 16-90-802;
- (2) The Corrections School System, created under § 12-29-301;
- (3) The criminal detention facility review committees, under § 12-26-101;
- (4) The Department of Community Correction, created under § 12-27-124, and now to be known as the Division of Community Correction;
- (5) The Department of Correction, created under § 12-27-101, and now to be known as the Division of Correction;
- (6) The Office of Criminal Detention Facilities, created under § 12-26-103;
- (7) The Parole Board, created under 16-93-201; and
- (8) The State Council for Interstate Commission for Adult Offender Supervision, created under 12-51-104.

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

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

<< AR ST § 25-43-403 >>

25-43-403. Secretary of the Department of Corrections.

(a) The executive head of the Department of Corrections shall be the Secretary of the Department of Corrections.

(b)(1) The Governor shall nominate to the Board of Corrections a candidate for secretary, subject to confirmation by the Senate.

(2)(A) The Board of Corrections shall appoint the secretary who shall serve at the pleasure of the Board of Corrections.

(B) The board is not required to appoint the nominee under subdivision (b)(1) of this section.

(c) The secretary may perform all duties to administer the Department of Corrections, subject to Arkansas Constitution, Amendment 33, including without limitation:

(1) Delegate to the employees of the Department of Corrections any of the powers or duties of the department required to administer the:

(A) Statutory duties; or

(B) Rules, orders, or directives promulgated or issued by the state entities transferred to or established within the department.

(2) Hire department personnel; and

(3) Perform or assign duties assigned to the department.

SECTION 645. Arkansas Code § 5-2-330 is amended to read as follows:

<< AR ST § 5-2-330 >>

5-2-330. Examination by ~~Department~~ Division of Correction prohibited.

A defendant committed to and under the supervision of the ~~Department~~ Division of Correction who is charged in circuit court shall not undergo an examination or observation conducted under this subchapter by a psychiatrist or other mental health employee of the division to determine the mental condition of the defendant.

SECTION 646. The introductory language of Arkansas Code § 5-2-613(a), concerning the use of physical force to prevent escape from a correctional facility or custody of a correctional officer, is amended to read as follows:

<< AR ST § 5-2-613 >>

(a) Unless the correctional officer knows or reasonably should know that a prisoner is charged with or has been convicted of only a misdemeanor, a correctional officer employed by the ~~Department~~ Division of Correction or by a private contractor in a correctional facility housing inmates for the division or a city or county correctional officer employed in

a correctional facility or jail is justified in using deadly physical force when and to the extent that the correctional officer reasonably believes the use of deadly physical force is necessary to prevent the escape of a prisoner from:

SECTION 647. Arkansas Code § 5-4-102(e), concerning presentence investigations, is amended to read as follows:

<< AR ST § 5-4-102 >>

(e) If the defendant is sentenced to imprisonment, a copy of the report of any presentence investigation or psychiatric examination or evaluation shall be transmitted immediately to the ~~Department~~ **Division** of Correction or, when the defendant is committed to the custody of a specific institution, to that specific institution.

SECTION 648. Arkansas Code § 5-4-104(f), concerning authorized sentences, is amended to read as follows:

<< AR ST § 5-4-104 >>

(f)(1) If the court determines that an offender under eighteen (18) years of age would be more amenable to a rehabilitation program of the Division of Youth Services of the Department of Human Services and that he or she previously has not been committed to the division on more than one (1) occasion, the court may sentence the offender under eighteen (18) years of age to the ~~Department~~ **Division** of Correction for a term of years, suspend the sentence, and commit him or her to the custody of the ~~division~~ **Division of Youth Services of the Department of Human Services**.

(2) In a case under subdivision (f)(1) of this section, if the offender under eighteen (18) years of age completes the program of the division satisfactorily, the ~~division~~ **Division of Youth Services of the Department of Human Services** shall return him or her to the sentencing court and provide the sentencing court with a written report of his or her progress and a recommendation that the offender under eighteen (18) years of age be placed on probation.

(3)(A) In the event that the offender under eighteen (18) years of age violates a rule of the ~~division's~~ **Division of Youth Services of the Department of Human Services'** program or facility or is otherwise not amenable to the ~~division's~~ **Division of Youth Services of the Department of Human Services'** rehabilitative effort, the ~~division~~ **Division of Youth Services of the Department of Human Services** may return him or her to the sentencing court with a written report of his or her conduct and a recommendation that the offender under eighteen (18) years of age be transferred to the ~~Department~~ **Division** of Correction.

(B) If the court finds that the offender under eighteen (18) years of age has violated a rule of the ~~division's~~ **Division of Youth Services of the Department of Human Services'** program or facility or is otherwise not amenable to the ~~division's~~ **Division of Youth Services of the Department of Human Services'** rehabilitative effort, the court shall then revoke the suspension of the sentence originally imposed and commit the offender under eighteen (18) years of age to the ~~Department~~ **Division** of Correction.

SECTION 649. Arkansas Code § 5-4-107(a)(1) and (2), concerning extended supervision and monitoring for certain sex offenders, are amended to read as follows:

<< AR ST § 5-4-107 >>

(a)(1) The ~~Department~~ **Division** of Correction within one hundred twenty (120) days before the release on parole of a person who is required to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., shall notify in writing the prosecuting attorney in the judicial district in which the person was sentenced of the person's impending release on parole.

(2) The ~~Department~~ **Division** of Community Correction within one hundred twenty (120) days before the release from probation of a person who is required to register as a sex offender under the Sex Offender Registration Act of 1997, § 12–12–901 et seq., shall notify in writing the prosecuting attorney in the judicial district in which the person was sentenced of the person's impending release from probation.

SECTION 650. Arkansas Code § 5–4–107(b)(3), concerning extended supervision and monitoring for certain sex offenders, is amended to read as follows:

<< AR ST § 5–4–107 >>

(3) If a hearing is requested, it shall be held at the earliest practicable time and at a time and on a date that would accommodate the transport of the person from a ~~Department~~ **Division** of Correction facility, ~~Department~~ **Division** of Community Correction facility, or the Arkansas State Hospital to the appropriate circuit court.

SECTION 651. Arkansas Code § 5–4–107(h), concerning extended supervision and monitoring for certain sex offenders, is amended to read as follows:

<< AR ST § 5–4–107 >>

(h) The ~~Department~~ **Division** of Community Correction shall administer any extended supervision and monitoring under this section and may adopt rules to implement this section.

SECTION 652. Arkansas Code § 5–4–304(c)(1)(B), concerning confinement as a condition of suspension or probation, is amended to read as follows:

<< AR ST § 5–4–304 >>

(B) In the case of confinement to a facility in the ~~Department~~ **Division** of Community Correction, the period actually spent in confinement under this section shall not exceed three hundred sixty-five (365) days.

SECTION 653. Arkansas Code § 5–4–312(b)(1)(D)(ii) and (iii), concerning presentence investigations and placement in community correction programs, are amended to read as follows:

<< AR ST § 5–4–312 >>

(ii) Upon revocation as described in subdivision (b)(1)(D)(i) of this section, the court shall determine whether the defendant shall remain under the jurisdiction of the court and be assigned to a more restrictive community correction program, facility, or institution for a period of time or committed to the ~~Department~~ **Division** of Correction.

(iii) If the defendant is committed to the ~~Department~~ **Division** of Correction under subdivision (b)(1)(D)(ii) of this section, the court shall specify if the commitment is for judicial transfer of the defendant to the ~~Department~~ **Division** of Community Correction or is a commitment to the ~~Department~~ **Division** of Correction;

SECTION 654. Arkansas Code § 5–4–312(b)(2) and (3), concerning presentence investigations and placement in community correction programs, are amended to read as follows:

<< AR ST § 5–4–312 >>

(2)(A) Commit the defendant to the custody of the ~~Department~~ **Division** of Correction for judicial transfer to the ~~Department~~ **Division** of Community Correction subject to the following:

(i) That the sentence imposed provides that the defendant shall not serve more than three (3) years of confinement, with credit for meritorious good time, with initial placement in a ~~Department~~ **Division** of Community Correction facility; and

(ii) That the preliminary placement in the ~~Department~~ **Division** of Community Correction facility is conditioned upon the ~~Department~~ **Division** of Community Correction's final determination of the defendant's initial and continuing eligibility for ~~Department~~ **Division** of Community Correction placement and the defendant's compliance with all applicable rules established by the Board of Corrections for community correction programs.

(B) Post-prison supervision of the defendant shall accompany and follow the community correction program when appropriate; or

(3)(A) Sentence the defendant to the ~~Department~~ **Division** of Correction, granting the ~~Department~~ **Division** of Correction the ability to administratively transfer the defendant to the ~~Department~~ **Division** of Community Correction if the ~~Department~~ **Division** of Correction determines that the sentence imposed meets the eligibility requirements for placement in a community correction program under this subchapter and § 16–93–1201 et seq.

(B) Administrative transfer to the ~~Department~~ **Division** of Community Correction under subdivision (b)(3)(A) of this section is conditioned upon bed space availability and upon the ~~Department~~ **Division** of Community Correction's final determination of the defendant's initial and continuing eligibility for ~~Department~~ **Division** of Community Correction placement.

(C) A determination of ineligibility under subdivision (b)(3)(A) of this section by the ~~Department~~ **Division** of Community Correction shall result in the immediate return of the defendant to the ~~Department~~ **Division** of Correction.

(D) A decision to release a defendant administratively transferred to the ~~Department~~ **Division** of Community Correction from the ~~Department~~ **Division** of Correction under subdivision (b)(3)(A) of this section is vested solely with the Parole Board.

SECTION 655. Arkansas Code § 5–4–312(d), concerning presentence investigations and placement in community correction programs, is amended to read as follows:

<< AR ST § 5–4–312 >>

(d)(1) If after receipt of an order directing a defendant to a community correction center, the ~~Department~~ **Division** of Community Correction determines that the defendant is not eligible for placement in a community correction program under § 16–93–1201 et seq., the ~~Department~~ **Division** of Community Correction shall not admit the defendant but shall immediately notify the prosecuting attorney in writing.

(2) After receipt of the notice required under subdivision (d)(1) of this section, the prosecuting attorney shall notify the court of the defendant's ineligibility for placement in a community correction center, and the court shall resentence the defendant accordingly.

SECTION 656. Arkansas Code § 5-4-320(a), concerning certain convicted felons to observe operations of correctional facilities, is amended to read as follows:

<< AR ST § 5-4-320 >>

(a) Any person who pleads guilty or nolo contendere or is found guilty in any circuit court of this state of a felony and whose sentence of imprisonment is placed on suspension or who is placed on probation may be ordered by the circuit court to report to an appropriate ~~Department~~ **Division** of Correction facility on a date certain to be scheduled by the ~~department~~ **division** for the duration of that work day to observe the operation of the ~~department's~~ **division's** facility.

SECTION 657. Arkansas Code § 5-4-402 is amended to read as follows:

<< AR ST § 5-4-402 >>

5-4-402. Place of imprisonment.

(a) Except as provided in §§ 5-4-304 and 16-93-708, a defendant convicted of a felony and sentenced to imprisonment shall be committed to the custody of the ~~Department~~ **Division** of Correction for the term of his or her sentence or until released in accordance with law.

(b) Except as provided in § 16-93-708, a defendant convicted of a misdemeanor and sentenced to imprisonment shall be committed to the county jail or other authorized institution designated by the court for the term of his or her sentence or until released in accordance with law.

(c) Except as provided in § 5-4-304 or § 16-93-708, a defendant convicted of a felony violation of §§ 5-64-419 — 5-64-442 and sentenced to imprisonment shall be committed to the custody of the ~~Department~~ **Division** of Correction for the term of his or her sentence or until released in accordance with law.

(d)(1)(A) A juvenile sentenced in circuit court who is less than sixteen (16) years of age when sentenced shall be committed to the custody of the Division of Youth Services of the Department of Human Services until his or her sixteenth birthday, at which time he or she shall be transferred to the ~~Department~~ **Division** of Correction, except as provided by court order or parole decision made by the Parole Board.

(B) Any record from the ~~division~~ **Division of Youth Services of the Department of Human Services** shall be transferred to the ~~Department~~ **Division** of Correction at the time the juvenile is transferred.

(2) A juvenile less than sixteen (16) years of age who is awaiting transfer to the ~~Department~~ **Division** of Correction shall be segregated from the general delinquency population housed at the ~~division~~ **Division of Youth Services of the Department of Human Services**.

(e)(1) With the consent and approval of the ~~division~~ **Division of Youth Services of the Department of Human Services**, the ~~Department~~ **Division** of Correction may transfer from the ~~Department~~ **Division** of Correction to the ~~division~~ **Division of Youth Services of the Department of Human Services** any inmate less than eighteen (18) years of age who, in the opinion of the ~~Department~~ **Division** of Correction and the ~~division~~ **Division of Youth Services of the Department of**

Human Services, is more suited and adaptable by age, physical size, and temperament to a program of the Department of Human Services.

(2)(A) An inmate transferred to the ~~division~~ **Division of Youth Services of the Department of Human Services** shall be segregated from the general delinquency population housed at the ~~division~~ **Division of Youth Services of the Department of Human Services**.

(B) If an inmate violates a rule of the ~~division's~~ **Division of Youth Services of the Department of Human Services'** program or facility or is otherwise not amenable to the ~~division's~~ **Division of Youth Services of the Department of Human Services'** rehabilitative effort, the ~~division~~ **Division of Youth Services of the Department of Human Services** may return the inmate to the ~~Department~~ **Division** of Correction.

(3) Any inmate transferred to the ~~division~~ **Division of Youth Services of the Department of Human Services** under this subsection shall be returned to the ~~Department~~ **Division** of Correction on the inmate's eighteenth birthday.

SECTION 658. Arkansas Code § 5-4-404 is amended to read as follows:

<< AR ST § 5-4-404 >>

5-4-404. Credit for time spent in custody.

If a defendant is held in custody for conduct that results in a sentence to imprisonment or confinement as a condition of suspension or probation, the court, the ~~Department~~ **Division** of Correction, or the ~~Department~~ **Division** of Community Correction shall credit the time spent in custody against the sentence, including time spent in a local jail facility awaiting transfer to the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction.

SECTION 659. Arkansas Code § 5-4-501(f), concerning habitual offenders and sentencing for felony, is amended to read as follows:

<< AR ST § 5-4-501 >>

(f) For the purposes of determining whether a defendant has previously been convicted of a serious felony involving violence or a felony involving violence under subsections (c) and (d) of this section, the entry of a plea of guilty or nolo contendere or a finding of guilt by a court to a felony enumerated in subsections (c) and (d) of this section, respectively, as a result of which a court places the defendant on a suspended imposition of sentence, a suspended sentence, or probation, or sentences the defendant to the ~~Department~~ **Division** of Correction, is considered a previous felony conviction.

SECTION 660. Arkansas Code § 5-4-606(1), concerning life imprisonment without parole, is amended to read as follows:

<< AR ST § 5-4-606 >>

(1) Be remanded to the custody of the ~~Department~~ **Division** of Correction for imprisonment for the remainder of his or her life; and

SECTION 661. Arkansas Code § 5-4-803(b)(2)(A), concerning the procedure for determining the sentence for an eligible offender, is amended to read as follows:

<< AR ST § 5-4-803 >>

(A) ~~Department~~ **Division** of Correction for an eligible offender committed to the division; or

SECTION 662. Arkansas Code § 5-4-803(c)(2)(A), concerning the procedure for determining the sentence for an eligible offender, is amended to read as follows:

<< AR ST § 5-4-803 >>

(A) ~~Department~~ **Division** of Correction for a felony offense; or

SECTION 663. Arkansas Code § 5-4-803(d)(4)(A), concerning the procedure for determining the sentence for an eligible offender, is amended to read as follows:

<< AR ST § 5-4-803 >>

(A) ~~Department~~ **Division** of Correction for a felony offense; or

SECTION 664. Arkansas Code § 5-4-804 is amended to read as follows:

<< AR ST § 5-4-804 >>

5-4-804. Medical treatment and costs.

The state is responsible for the cost of medical treatment approved by the ~~Department~~ **Division** of Correction of an eligible offender sentenced to a felony under this subchapter if the medical treatment is for:

(1) The result of an injury sustained on the work site of the community work project or during transportation to and from the work site by a government entity; or

(2)(A) The result of illness or an injury sustained by an eligible offender committed to the county jail or regional jail and who is assigned to a community work project.

(B) The ~~Department~~ **Division** of Correction may transfer an eligible offender committed to a county jail or regional jail under this subchapter to a medical facility or treatment facility, including a facility of the ~~Department~~ **Division** of Correction, it deems appropriate for the medical treatment.

(3) Nothing in this section precludes the ~~Department~~ **Division** of Correction from seeking reimbursement or damages from a person or entity that contributes to or causes the injury or illness referred to in this section.

SECTION 665. Arkansas Code § 5-4-901 is amended to read as follows:

<< AR ST § 5-4-901 >>

5-4-901. Legislative intent.

The intent of this act is to provide the judiciary with an additional alternative to the disposition of criminal offenders that would assist the offender in atoning for his or her criminal transgression and promote the enforcement of the state's criminal statutes while easing the inmate burden on the county jails and the ~~Department~~ **Division** of Correction.

SECTION 666. Arkansas Code § 5–10–101(a)(6), concerning capital murder, is amended to read as follows:

<< AR ST § 5–10–101 >>

(6) While incarcerated in the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction, the person purposely causes the death of another person after premeditation and deliberation;

SECTION 667. Arkansas Code § 5–13–202(a)(4)(A)(ii)(b), concerning battery in the second degree, is amended to read as follows:

<< AR ST § 5–13–202 >>

(b) “Employee of a correctional facility” includes a person working under a professional services contract with the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, or the Division of Youth Services of the Department of Human Services;

SECTION 668. Arkansas Code § 5–14–110(a)(3)(A), concerning sexual indecency with a child, is amended to read as follows:

<< AR ST § 5–14–110 >>

(A) Employed with the ~~Department~~ **Division** of Correction, ~~Department~~ **Division** of Community Correction, any city or county jail, or any juvenile detention facility, and the minor is in custody at a facility operated by the agency or contractor employing the actor;

SECTION 669. Arkansas Code § 5–14–110(a)(4)(A) and (B), concerning sexual indecency with a child, are amended to read as follows:

<< AR ST § 5–14–110 >>

(A) Employed with the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, any city or county jail, or any juvenile detention facility, and the minor is in custody at a facility operated by the agency or contractor employing the actor;

(B) Employed by or contracted with the ~~Department~~ **Division** of Community Correction, a local law enforcement agency, a court, or a local government and the actor is supervising the minor while the minor is on probation or parole or for any other court-ordered reason;

SECTION 670. Arkansas Code § 5–14–124(a)(1)(A) and (B), concerning sexual assault in the first degree, are amended to read as follows:

<< AR ST § 5-14-124 >>

(A) Employed with the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Department of Human Services, or any city or county jail or a juvenile detention facility, and the victim is in the custody of the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Department of Human Services, any city or county jail or juvenile detention facility, or their contractors or agents;

(B) Employed by or contracted with the ~~Department~~ **Division** of Community Correction, a local law enforcement agency, a court, or a local government and the actor is supervising the minor while the minor is on probation or parole or for any other court-ordered reason;

SECTION 671. Arkansas Code § 5-14-125(a)(4)(A)(i) and (ii), concerning sexual assault in the second degree, are amended to read as follows:

<< AR ST § 5-14-125 >>

(i) Employed with the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, any city or county jail, or any juvenile detention facility, and the minor is in custody at a facility operated by the agency or contractor employing the actor;

(ii) Employed by or contracted with the ~~Department~~ **Division** of Community Correction, a local law enforcement agency, a court, or a local government and the actor is supervising the minor while the minor is on probation or parole or for any other court-ordered reason;

SECTION 672. Arkansas Code § 5-14-126(a)(1)(A)-(C), concerning sexual assault in the third degree, are amended to read as follows:

<< AR ST § 5-14-126 >>

(A) Employed with the ~~Department~~ **Division** of Correction, ~~Department~~ **Division** of Community Correction, Department of Human Services, or any city or county jail, the victim is in the custody of the ~~Department~~ **Division** of Correction, ~~Department~~ **Division** of Community Correction, Department of Human Services, or any city or county jail, and the actor is in a position of trust or authority over the victim and uses the position of trust or authority to engage in sexual intercourse or deviate sexual activity;

(B) Employed by or contracted with the ~~Department~~ **Division** of Community Correction, a local law enforcement agency, a court, or a local government and the actor is supervising the person while the person is on probation or parole or for any other court-ordered reason;

(C) Employed or contracted with or otherwise providing services, supplies, or supervision to an agency maintaining custody of inmates, detainees, or juveniles, the victim is in the custody of the ~~Department~~ **Division** of Correction, ~~Department~~ **Division** of Community Correction, Department of Human Services, or any city or county jail, and the actor is in a position of trust or authority over the victim and uses the position of trust or authority to engage in sexual intercourse or deviate sexual activity; or

SECTION 673. Arkansas Code § 5-14-127(a)(2), concerning sexual assault in the fourth degree, is amended to read as follows:

<< AR ST § 5-14-127 >>

(2) Engages in sexual contact with another person who is not the actor's spouse, and the actor is employed with the ~~Department~~ **Division** of Correction, ~~Department~~ **Division** of Community Correction, Department of Human Services, or any city or county jail, and the victim is in the custody of the ~~Department~~ **Division** of Correction, ~~Department~~ **Division** of Community Correction, Department of Human Services, or a city or county jail.

SECTION 674. Arkansas Code § 5-37-226(b)(2)(D) and (E), concerning filing instruments affecting title or interest in real property, are amended to read as follows:

<< AR ST § 5-37-226 >>

(D) An employee of the ~~Department~~ **Division** of Correction;

(E) An employee of the ~~Department~~ **Division** of Community Correction;

SECTION 675. Arkansas Code § 5-54-101(11)(A), concerning the definition of “prohibited article” under the laws governing obstructing governmental operations, is amended to read as follows:

<< AR ST § 5-54-101 >>

(A) An intoxicating beverage other than sacramental wine labeled as sacramental wine and supplied by a religious official who supplies the sacramental wine to an inmate in the ~~Department~~ **Division** of Correction or ~~Department~~ **Division** of Community Correction for the sole purpose of an approved religious service, pursuant to rules and regulations promulgated by the Board of Corrections;

SECTION 676. Arkansas Code § 5-54-110(b)(1)(A) and (B), concerning the offense of first degree escape, are amended to read as follows:

<< AR ST § 5-54-110 >>

(A) The ~~Department~~ **Division** of Correction;

(B) The ~~Department~~ **Division** of Community Correction; or

SECTION 677. Arkansas Code § 5–54–111(b)(1)(A) and (B), concerning the offense of second degree escape, are amended to read as follows:

<< AR ST § 5–54–111 >>

(A) The ~~Department~~ **Division** of Correction;

(B) The ~~Department~~ **Division** of Community Correction; or

SECTION 678. Arkansas Code § 5–54–112(c)(1)(A) and (B), concerning the offense of second degree escape, are amended to read as follows:

<< AR ST § 5–54–112 >>

(A) The ~~Department~~ **Division** of Correction;

(B) The ~~Department~~ **Division** of Community Correction; or

SECTION 679. Arkansas Code § 5–73–119(e)(12)(B)(ii), concerning the possession of a handgun by a minor or possession on school property, is amended to read as follows:

<< AR ST § 5–73–119 >>

(ii) “Parking lot” does not include a parking lot owned, maintained, or otherwise controlled by the ~~Department~~ **Division** of Correction or ~~Department~~ **Division** of Community Correction.

SECTION 680. Arkansas Code § 5–73–122(a)(3)(C)(ii)(b), concerning carrying a firearm in publicly owned buildings or facilities, is amended to read as follows:

<< AR ST § 5–73–122 >>

(b) “Parking lot” does not include a parking lot owned, maintained, or otherwise controlled by the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction;

SECTION 681. Arkansas Code § 5–73–122(a)(3)(D)(iii), concerning carrying a firearm in publicly owned buildings or facilities, is amended to read as follows:

<< AR ST § 5-73-122 >>

(iii) A facility operated by the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction; or

SECTION 682. Arkansas Code § 5-73-131(a), concerning the possession or use of a weapon by an incarcerated person, is amended to read as follows:

<< AR ST § 5-73-131 >>

(a) A person commits the offense of possession or use of weapons by incarcerated persons if, without approval of custodial authority he or she uses, possesses, makes, repairs, sells, or otherwise deals in any weapon, including, but not limited to, any bomb, firearm, knife, or other implement for the infliction of serious physical injury or death and that serves no common lawful purpose, while incarcerated in the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, or a county or municipal jail or detention facility.

SECTION 683. Arkansas Code § 5-73-306(4), concerning places a licensed concealed handgun is prohibited, is amended to read as follows:

<< AR ST § 5-73-306 >>

(4) Any part of a detention facility, prison, or jail, including without limitation a parking lot owned, maintained, or otherwise controlled by the ~~Department~~ **Division** of Correction or ~~Department~~ **Division** of Community Correction;

SECTION 684. Arkansas Code § 6-18-203(c), concerning attendance in a district other than the district of residence, is amended to read as follows:

<< AR ST § 6-18-203 >>

(c) When any employee of the ~~Department~~ **Division** of Correction lives on ~~department~~ **division** property or will live on ~~department~~ **division** property as the result of a transfer from a unit of the ~~department~~ **division** to another unit, the children or wards of the employee may complete their education in the school district in which they are enrolled at the time the parent or guardian is transferred.

SECTION 685. Arkansas Code § 6-82-501(2), concerning the definition of “Department of Community Correction employee” under the laws governing the children of law enforcement officers, is amended to read as follows:

<< AR ST § 6-82-501 >>

(2) “~~Department~~ **Division** of Community Correction employee” means any employee of the ~~Department~~ **Division** of Community Correction who suffers fatal injuries or wounds or becomes permanently and totally disabled as a result of injuries or wounds that occurred through contact with parolees, probationers, or center residents;

SECTION 686. Arkansas Code § 6-82-501(6), concerning the definition of “state correction employee” under the laws governing the children of law enforcement officers, is amended to read as follows:

<< AR ST § 6-82-501 >>

(6) “State correction employee” means any employee of the ~~Department~~ **Division** of Correction or the Corrections School System who becomes subject to injury through contact with inmates or parolees of the ~~Department~~ **Division** of Correction;

SECTION 687. Arkansas Code § 6-82-501(9), concerning the definition of “state parks employee” under the laws governing scholarships to children of law enforcement officers and others, is amended to read as follows:

<< AR ST § 6-82-501 >>

(9) “State parks employee” means any employee of the ~~State Parks Division of the~~ Department of Parks, **Heritage**, and Tourism who is a commissioned law enforcement officer or emergency response employee while actively engaged in the performance of his or her duties; and

SECTION 688. Arkansas Code § 8-6-307(d), concerning exemptions for the transfer of funds, is amended to read as follows:

<< AR ST § 8-6-307 >>

(d) The ~~Department of Corrections~~ **Division of Correction** exempt from the provisions of this section.

SECTION 689. Arkansas Code § 9-2-102 is amended to read as follows:

<< AR ST § 9-2-102 >>

9-2-102. Name change — Use of new name.

Any person whose name may be so changed by judgment or decree of any of the circuit courts shall afterward be known and designated, sue and be sued, plead and be impleaded, by the name thus conferred, except that records of persons under the jurisdiction and supervision of the ~~Department~~ **Division** of Correction shall continue to reflect the name as committed to the ~~department's~~ **division's** jurisdiction and supervision by the various circuit courts of the State of Arkansas.

SECTION 690. Arkansas Code § 9-27-303(48)(A)(v)(b)(2) and (3), concerning the definition of “reasonable efforts” under the Arkansas Juvenile Code of 1989, are amended to read as follows:

<< AR ST § 9-27-303 >>

(2) Monitor compliance with services offered by the ~~Department~~ **Division** of Correction to the extent permitted by federal law; and

(3) Offer visitation in accordance with the policies of the ~~Department~~ **Division** of Correction if visitation is appropriate and in the best interest of the child.

SECTION 691. Arkansas Code § 9–27–510 is amended to read as follows:

<< AR ST § 9–27–510 >>

9–27–510. ~~Department~~ **Division of Correction — Placement.**

(a)(1) A juvenile who has received an adult sentence to the ~~Department~~ **Division** of Correction shall not be transported to the ~~Department~~ **Division** of Correction until the juvenile is sixteen (16) years of age.

(2) If a juvenile receives a sentence to the ~~Department~~ **Division** of Correction ~~prior to~~ **before** the juvenile's sixteenth birthday, the juvenile shall be housed by the Division of Youth Services of the Department of Human Services until that date, except as provided by court order or parole decision made by the Parole Board.

(b) A juvenile sentenced in the criminal division of circuit court who is less than sixteen (16) years of age when sentenced shall be committed to the custody of the Division of Youth Services until his or her sixteenth birthday, at which time he or she shall be transferred to the ~~Department~~ **Division** of Correction.

(c)(1)(A) Juveniles sentenced to the ~~Department~~ **Division** of Correction pursuant to extended juvenile jurisdiction are subject to parole as any other inmate within the ~~Department~~ **Division** of Correction.

(B) Juveniles adjudicated for capital murder, § 5–10–101, or murder in the first degree, § 5–10–102, are subject to parole.

(2) Juveniles will be given credit for time served in a juvenile detention or juvenile facility against any adult sentence.

SECTION 692. Arkansas Code § 9–28–214(a), concerning the penalty for escape, is amended to read as follows:

<< AR ST § 9–28–214 >>

(a) If charged and found guilty as an adult for first degree escape, § 5–54–110, or second degree escape, § 5–54–111, a juvenile shall be given a mandatory sentence of not less than nine (9) months in an appropriate facility of the ~~Department~~ **Division** of Correction.

SECTION 693. The introductory language of Arkansas Code § 12–26–103, concerning the creation and duties of the Office of Criminal Detention Facilities Review Coordinator, is amended to read as follows:

<< AR ST § 12–26–103 >>

(a) There is established the Office of Criminal Detention Facilities Review Coordinator **within the Department of Corrections** which shall consist of:

SECTION 694. Arkansas Code § 11–3–401(a)(2), concerning the prevention of lawful employment prohibited, is amended to read as follows:

<< AR ST § 11–3–401 >>

(2) Any person guilty of violating this subsection shall be deemed guilty of a felony and upon conviction shall be punished by confinement in the Department of ~~Correction~~ **Corrections** for not less than one (1) year nor more than two (2) years.

SECTION 695. Arkansas Code § 11-3-401(b)(3), concerning the prevention of lawful employment prohibited, is amended to read as follows:

<< AR ST § 11-3-401 >>

(3) Any person guilty of violating this subsection shall be deemed guilty of a felony and upon conviction thereof shall be punished by confinement in the Department of ~~Correction~~ **Corrections** for not less than one (1) year nor more than two (2) years.

SECTION 696. Arkansas Code § 11-9-110(a), resulting from Initiated Act 4 of 1948 and concerning compensation nonassignable and payable to dependents, is amended to read as follows:

<< AR ST § 11-9-110 >>

(a) The right to compensation shall not be assignable and shall not be subject to garnishment, attachment, levy, execution, or any other legal process, except for child support obligations and moneys retained by the ~~Department~~ **Division** of Correction under § 12-30-406(a)(1).

SECTION 697. Arkansas Code § 11-9-812(a)(1), concerning the incarceration of an injured employee, is amended to read as follows:

<< AR ST § 11-9-812 >>

(a)(1) When any person who receives workers' compensation benefits is incarcerated in an institution under the control of the ~~Department~~ **Division** of Correction, the inmate's spouse or, if no spouse, the inmate's minor dependent children, may petition the Workers' Compensation Commission to award to the spouse or minor dependent children the inmate's workers' compensation weekly disability benefits for the period of the claimant's incarceration.

SECTION 698. Arkansas Code § 11-14-106(a)(3)(A)(v), concerning required drug or alcohol tests, is amended to read as follows:

<< AR ST § 11-14-106 >>

(v) Work in direct contact with inmates in the custody of the ~~Department~~ **Division** of Correction; or

SECTION 699. Arkansas Code § 12-1-102 is amended to read as follows:

<< AR ST § 12-1-102 >>

12-1-102. Records to be posted on a public website.

(a) Relevant research studies and reports concerning the following topics that are generated by the research divisions of the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, and the Parole Board

or by third-party contractors on behalf of the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, and the board, when applicable, shall be posted on the ~~Department~~ **Division** of Correction's, the ~~Department~~ **Division** of Community Correction's, or board's website:

- (1) Population projections;
- (2) Recidivism; and
- (3) Evaluation of the cost-benefit of evidence-based practices of:
 - (A) Adult prisons;
 - (B) Community corrections facilities;
 - (C) Probation; and
 - (D) Parole.

(b) Data posted on the board's, ~~Department~~ **Division** of Correction's, or the ~~Department~~ **Division** of Community Correction's websites under this section may be removed from the board's, ~~Department~~ **Division** of Correction's, or the ~~Department~~ **Division** of Community Correction's websites after five (5) years.

SECTION 700. Arkansas Code § 12-12-315(a)(1)(E), concerning the notification of certain deaths, is amended to read as follows:

<< AR ST § 12-12-315 >>

(E) The death occurs while the person is in a state mental institution or hospital and there is no previous medical history to explain the death, or while the person is in police custody or jail other than a jail operated by the ~~Department~~ **Division** of Correction;

SECTION 701. Arkansas Code § 12-12-315(b), concerning notification of deaths, is amended to read as follows:

<< AR ST § 12-12-315 >>

(b) With regard to any death in a correctional facility, the county coroner and the State Medical Examiner shall be notified, and when previous medical history does not exist to explain the death, the ~~Department~~ **Division** of Arkansas State Police shall be notified.

SECTION 702. Arkansas Code § 12-12-904(a)(1)(B)(ii), concerning the failure to comply with registration and reporting requirements and refusal to cooperate with the assessment process, is amended to read as follows:

<< AR ST § 12-12-904 >>

(ii) If a sex offender fails or refuses to provide any information necessary to update his or her registration file as required by § 12-12-906(b)(2), as soon as administratively feasible the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Arkansas State Hospital, or the Department of Human Services shall contact the local law enforcement agency having jurisdiction to report the violation of subdivision (a)(1)(B)(i) of this section.

SECTION 703. Arkansas Code § 12–12–906(a)(1)(B) and (C), concerning the duty to register or verify registration and review of requirements with offenders, is amended to read as follows:

<< AR ST § 12–12–906 >>

(B)(i) The ~~Department~~ **Division** of Correction shall ensure that a sex offender received for incarceration has completed the sex offender registration form.

(ii) If the ~~Department~~ **Division** of Correction cannot confirm that the sex offender has completed the sex offender registration form, the ~~Department~~ **Division** of Correction shall require the sex offender to complete the sex offender registration form upon intake, release, or discharge.

(C)(i) The ~~Department~~ **Division** of Community Correction shall ensure that a sex offender placed on probation or another form of community supervision has completed the sex offender registration form.

(ii) If the ~~Department~~ **Division** of Community Correction cannot confirm that the sex offender has completed the sex offender registration form, the ~~Department~~ **Division** of Community Correction shall require the sex offender to complete the sex offender registration form upon intake, release, or discharge.

SECTION 704. Arkansas Code § 12–12–906(b)(2), concerning the duty to register or verify registration and review of requirements with offenders, is amended to read as follows:

<< AR ST § 12–12–906 >>

(2) Immediately prior to the release or discharge of a sex offender or immediately following a sex offender's escape or his or her absconding from supervision, the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Arkansas State Hospital, or the Department of Human Services shall update the registration file of the sex offender who is to be released or discharged or who has escaped or has absconded from supervision.

SECTION 705. Arkansas Code § 12–12–906(c)(1)(A), concerning the duty to register or verify registration and review of requirements with offenders, is amended to read as follows:

<< AR ST § 12–12–906 >>

(c)(1)(A) When registering a sex offender as provided in subsection (a) of this section, the sentencing court, the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Arkansas State Hospital, the Department of Human Services, or the local law enforcement agency having jurisdiction shall:

(i) Inform the sex offender of the duty to submit to assessment and to register and obtain the information required for registration as described in § 12–12–908;

(ii) Inform the sex offender that if the sex offender changes residency within the state, the sex offender shall give the new address and place of employment, education, higher education, or training to the center in writing no later than ten (10) days before the sex offender establishes residency or is temporarily domiciled at the new address;

(iii)(a) Inform the sex offender that if the sex offender changes residency to another state or enters another state to work or attend school, the sex offender must also register in that state regardless of permanent residency.

- (b) The sex offender shall register the new address and place of employment, education, higher education, or training with the center and with a designated law enforcement agency in the new state in person not later than three (3) business days after the sex offender establishes residence or is temporarily domiciled in the new state;
- (iv) Obtain fingerprints, palm prints, and a photograph of the sex offender if these have not already been obtained in connection with the offense that triggered registration;
- (v) Obtain a deoxyribonucleic acid (DNA) sample if one has not already been provided;
- (vi) Require the sex offender to complete the entire registration process, including, but not limited to, requiring the sex offender to read and sign a form stating that the duty of the sex offender to register under this subchapter has been explained;
- (vii) Inform the sex offender that if the sex offender's address changes within the state or to another state due to an eviction, natural disaster, or any other unforeseen circumstance, the sex offender shall give the new address to the local law enforcement agency having jurisdiction in person no later than three (3) business days after the sex offender establishes residency;
- (viii) Inform a sex offender who has been granted probation that failure to comply with the provisions of this subchapter may be grounds for revocation of the sex offender's probation; and
- (ix) Inform a sex offender subject to lifetime registration under § 12–12–919 of the duty to:
- (a) Verify registration and obtain the information required for registration verification as described in subsections (g) and (h) of this section; and
 - (b) Ensure that the information required for reregistration verification under subsections (g) and (h) of this section is provided to the local law enforcement agency having jurisdiction.

SECTION 706. Arkansas Code § 12–12–906(c)(2), concerning the duty to register or verify registration and review of requirements with offenders, is amended to read as follows:

<< AR ST § 12–12–906 >>

(2) When updating the registration file of a sex offender, the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Arkansas State Hospital, or the Department of Human Services shall:

- (A) Review with the sex offender the duty to register and obtain current information required for registration as described in § 12–12–908;
- (B) Review with the sex offender the requirement that if the sex offender changes address within the state, the sex offender shall give the new address to the local law enforcement agency having jurisdiction in person no later than ten (10) days before the sex offender establishes residency or is temporarily domiciled at the new address;
- (C) Review with the sex offender the requirement that if the sex offender changes address to another state, the sex offender shall register the new address with the local law enforcement agency having jurisdiction in person and with a designated law enforcement agency in the new state in person not later than three (3) business days

after the sex offender establishes residence or is temporarily domiciled in the new state if the new state has a registration requirement;

(D) Require the sex offender to read and sign a form stating that the duty of the sex offender to register under this subchapter has been reviewed;

(E) Inform the sex offender that if the sex offender's address changes within the state or to another state due to an eviction, natural disaster, or any other unforeseen circumstance, the sex offender shall give the new address to the local law enforcement agency having jurisdiction in person no later than three (3) business days after the sex offender establishes residency;

(F) Review with the sex offender the consequences of failure to provide any information required by subdivision (b)(2) of this section;

(G) Inform a sex offender subject to lifetime registration under § 12–12–919 of the duty to:

(i) Verify registration and report the information required for registration verification as described in subsections (g) and (h) of this section; and

(ii) Ensure that the information required for registration verification under subsections (g) and (h) of this section is provided in person to the local law enforcement agency having jurisdiction; and

(H) Review with a sex offender subject to lifetime registration under § 12–12–919 the consequences of failure to verify registration under § 12–12–904.

SECTION 707. Arkansas Code § 12–12–906(d), concerning the duty to register or verify registration and review of requirements with offenders, is amended to read as follows:

<< AR ST § 12–12–906 >>

(d) When registering or updating the registration file of a sexually dangerous person, in addition to the requirements of subdivision (c)(1) or subdivision (c)(2) of this section, the sentencing court, the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Arkansas State Hospital, the Department of Human Services, or the local law enforcement agency having jurisdiction shall obtain documentation of any treatment received for the mental abnormality or personality disorder of the sexually dangerous person.

SECTION 708. Arkansas Code § 12–12–906(g)(3)(M)(ii)(b), concerning the duty to register or verify registration and review of requirements with offenders, is amended to read as follows:

<< AR ST § 12–12–906 >>

(b) Submit the fingerprints to the center and to the ~~Department~~ **Division** of Arkansas State Police.

SECTION 709. Arkansas Code § 12–12–906(g)(3)(M)(iii)(b), concerning the duty to register or verify registration and review of requirements with offenders, is amended to read as follows:

<< AR ST § 12–12–906 >>

(b) Submit the palm prints to the center and to the ~~Department~~ **Division** of Arkansas State Police;

SECTION 710. Arkansas Code § 12-12-906(h)(3)(M)(ii)(b), concerning the duty to register or verify registration and review of requirements with offenders, is amended to read as follows:

<< AR ST § 12-12-906 >>

(b) Submit the fingerprints to the center and to the ~~Department~~ **Division** of Arkansas State Police.

SECTION 711. Arkansas Code § 12-12-906(h)(3)(M)(iii)(b), concerning the duty to register or verify registration and review of requirements with offenders, is amended to read as follows:

<< AR ST § 12-12-906 >>

(b) Submit the palm prints to the center and to the ~~Department~~ **Division** of Arkansas State Police;

SECTION 712. Arkansas Code § 12-12-907(a)(1), concerning reports to the Arkansas Crime Information Center and law enforcement agencies, is amended to read as follows:

<< AR ST § 12-12-907 >>

(a)(1) Within three (3) days after registering or updating the registration file of a sex offender, the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Department of Human Services, the sentencing court, or the local law enforcement agency having jurisdiction shall report, by written or electronic means, all information obtained from the sex offender and regarding the sex offender to the Arkansas Crime Information Center.

SECTION 713. Arkansas Code § 12-12-907(b)(4), concerning reports to the Arkansas Crime Information Center and law enforcement agency, is amended to read as follows:

<< AR ST § 12-12-907 >>

(4) The center shall have access to the offender tracking systems of the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction to confirm the location of registrants.

SECTION 714. Arkansas Code § 12-12-908(a), concerning registration format requirements is amended to read as follows:

<< AR ST § 12-12-908 >>

(a) The Director of the Arkansas Crime Information Center shall prepare the format for registration as required in subsection (b) of this section and shall provide instructions for registration to each organized full-time municipal police division, county sheriff's office, the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Department of Human Services, and the Administrative Office of the Courts.

SECTION 715. Arkansas Code § 12-12-911(b)(1), concerning the sex and child offenders registration fund, is amended to read as follows:

<< AR ST § 12-12-911 >>

(b)(1) This fund shall consist of special revenues collected pursuant to § 12-12-910, there to be used equally by the Arkansas Crime Information Center and the ~~Department~~ **Division** of Correction for the administration of this subchapter.

SECTION 716. Arkansas Code § 12-12-913(d)(3), concerning the disclosure of registration records, is amended to read as follows:

<< AR ST § 12-12-913 >>

(3) In conjunction with the notice provided under § 12-12-914, the ~~Department~~ **Division** of Correction and the Department of Human Services shall make available to a local law enforcement agency having jurisdiction all information that the ~~Department~~ **Division** of Correction and the Department of Human Services have concerning the sex offender, including information on risk factors in the sex offender's history.

SECTION 717. Arkansas Code § 12-12-914(a)(1), concerning the notice of release to the Arkansas Crime Information Center, is amended to read as follows:

<< AR ST § 12-12-914 >>

(a)(1) The ~~Department~~ **Division** of Correction shall provide notice by written or electronic means to the Arkansas Crime Information Center of the anticipated release from incarceration in a county or state penal institution of a person serving a sentence for a sex offense.

SECTION 718. Arkansas Code § 12-12-914(d)(2), concerning the notice of release to the Arkansas Crime Information Center, is amended to read as follows:

<< AR ST § 12-12-914 >>

(2) If notification cannot be made throughout the system established under § 12-12-1201 et seq., the ~~Department~~ **Division** of Correction shall provide the notification to the victim.

SECTION 719. Arkansas Code § 12-12-915 is amended to read as follows:

<< AR ST § 12-12-915 >>

12-12-915. Authority — Rules.

(a) The ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Department of Human Services, the Administrative Office of the Courts, and the Arkansas Crime Information Center shall promulgate rules to establish procedures for:

- (1) Notifying the sex offender of the obligation to register pursuant to this subchapter; and
- (2) Registering the sex offender.

(b)(1) The ~~Department~~ **Division** of Community Correction shall monitor an adult sex offender under its supervisory authority who is subject to electronic monitoring under § 12–12–923.

- (2) The Department of Human Services shall monitor an adult or juvenile sex offender under its supervisory authority who is subject to electronic monitoring under § 12–12–923.

(c)(1) The ~~Department~~ **Division** of Community Correction shall promulgate rules to establish procedures for monitoring an adult sex offender under its supervisory authority who is subject to electronic monitoring under § 12–12–923.

- (2) The Department of Human Services shall promulgate rules to establish procedures for monitoring an adult or juvenile sex offender under its supervisory authority who is subject to electronic monitoring under § 12–12–923.

SECTION 720. Arkansas Code § 12–12–917(b)(2)(A)(ii)(a), concerning the evaluation protocol for sexually dangerous persons and juveniles adjudicated delinquent, is amended to read as follows:

<< AR ST § 12–12–917 >>

(ii)(a) Subject to subdivision (c)(1) of this section, the prosecuting attorney and any law enforcement agency shall furnish the file relating to the offender to Community Notification Assessment at the ~~Department~~ **Division** of Correction within thirty (30) days of an offender's adjudication of guilt.

SECTION 721. Arkansas Code § 12–12–917(f)(2) and (3), concerning the evaluation protocol for sexually dangerous persons and juveniles adjudicated delinquent, are amended to read as follows:

<< AR ST § 12–12–917 >>

(2) The committee shall provide the Parole Board with copies of the offender fact sheet on inmates of the ~~Department~~ **Division** of Correction.

(3) The committee shall provide the ~~Department~~ **Division** of Community Correction with copies of the offender fact sheet on any sex offender under the ~~Department~~ **Division** of Community Correction's supervision.

SECTION 722. Arkansas Code § 12–12–917(g)(1), concerning the evaluation protocol for sexually dangerous persons and juveniles adjudicated delinquent, is amended to read as follows:

<< AR ST § 12–12–917 >>

(g)(1) In cooperation with the committee, the ~~Department~~ **Division** of Correction shall promulgate rules and regulations to establish the review process for assessment determinations.

SECTION 723. Arkansas Code § 12–12–917(h)(2), concerning the evaluation protocol for sexually dangerous persons and juveniles adjudicated delinquent, is amended to read as follows:

<< AR ST § 12–12–917 >>

(2)(A) A local law enforcement agency having jurisdiction, the ~~Department~~ **Division** of Community Correction, or the Parole Board may request the committee to reassess a sex offender's assigned risk level at any time.

(B) In the request for reassessment, the local law enforcement agency having jurisdiction, the ~~Department~~ **Division** of Community Correction, or the Parole Board shall list the facts and circumstances that prompted the requested reassessment.

SECTION 724. Arkansas Code § 12–12–918(b)(1)(A), concerning classification as a sexually dangerous person, is amended to read as follows:

<< AR ST § 12–12–918 >>

(A) The defendant may be sent for evaluation to a facility designated by the ~~Department~~ **Division** of Correction; or

SECTION 725. Arkansas Code § 12–12–918(b)(2), concerning classification as a sexually dangerous person, is amended to read as follows:

<< AR ST § 12–12–918 >>

(2) The cost of the evaluation shall be paid by the ~~Department~~ **Division** of Correction.

SECTION 726. Arkansas Code § 12–12–1109(c), concerning a DNA sample required upon adjudication of guilt, is amended to read as follows:

<< AR ST § 12–12–1109 >>

(c) All DNA samples taken pursuant to this section shall be taken in accordance with regulations promulgated by the State Crime Laboratory in consultation with the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Department of Human Services, and the Administrative Office of the Courts.

SECTION 727. Arkansas Code § 12–12–1110(e)(1), concerning procedures of withdrawal, collection, and transmission of DNA samples, is amended to read as follows:

<< AR ST § 12–12–1110 >>

(e)(1) Any person who refuses to provide a DNA sample required by this subchapter will receive no further sentence reduction for meritorious good time until such time as a sample is provided, and the ~~Department~~ **Division** of Correction shall notify the Parole Board regarding the refusal.

SECTION 728. Arkansas Code § 12–27–101 is amended to read as follows:

<< AR ST § 12-27-101 >>

12-27-101. Purposes and construction of the Department Division of Correction.

(a)(1) The purpose of this act is to establish a Department **Division** of Correction that shall assume the custody, control, and management of the state penitentiary, execute the orders of criminal courts of the State of Arkansas, and provide for the custody, treatment, rehabilitation, and restoration of adult offenders as useful law-abiding citizens within the community.

(2) The department **division** shall be under the supervision and control of the Board of Corrections.

(3) To accomplish the objectives and purposes of this act in an effective, coordinated, and uniform manner, the department **division** shall be responsible for the maintenance, supervision, and administration of adult detention and correctional services of the state as determined by the board.

(4) Institutions and services shall be diversified in program, construction, and staff to provide effectually and efficiently for the maximum custody, care, supervision, and treatment of those persons committed to the department **division**.

(b) This act shall be liberally construed so as to effectuate its purposes.

SECTION 729. Arkansas Code § 12-27-102 is amended to read as follows:

<< AR ST § 12-27-102 >>

12-27-102. Enforcement of penalties — Report of crimes.

(a) All laws of this state prescribing penalties for violations concerned with or affecting the state penitentiary or inmates thereof shall be equally applicable to the Department **Division** of Correction and shall be enforced accordingly.

(b) In the event any crime shall be committed in any institution of the department **division**, it shall be the duty of the Director of the Department **Division** of Correction, or his or her designated employee, to report the crime to the county sheriff and prosecuting attorney of the county in which the institution is located in which the crime, or alleged crime, took place.

SECTION 730. Arkansas Code § 12-27-103 is amended to read as follows:

<< AR ST § 12-27-103 >>

12-27-103. Department Division of Correction — Creation — Powers and duties.

(a) There is established, under the supervision, control, and direction of the Board of Corrections, a Department **Division** of Correction.

(b) The Department **Division** of Correction shall have the following functions, powers, and duties, administered in accordance with the policies, rules, and regulations promulgated by the Board of Corrections:

(1) The Department **Division** of Correction shall have exclusive jurisdiction over the care, charge, custody, control, management, administration, and supervision of all persons and offenders committed to, or in the custody of, the state penitentiary;

(2) The Department **Division** of Correction shall assume **maintain** management and control over all properties, both real and personal, facilities, books, records, equipment, supplies, materials, contracts, funds, moneys, equities, and all other properties belonging to the state penitentiary, except those deemed by the Board of Corrections to be more

appropriate for placement **placed** in the Department **Division** of Community Correction. The Department **Division** of Correction shall administer said properties in accordance with the provisions of this act and other laws applicable to the administration of the state correctional system;

(3) The Department of Correction, **as the Division of Correction was known as prior to July 1, 2019**, shall ~~assume~~ **assumed** all obligations, contracts, indebtedness, liabilities, and other obligations of the state penitentiary system existing on March 1, 1968;

(4)(A) The Department of Correction, **as the Division of Correction was known as prior to July 1, 2019**, shall ~~have~~ **has** custody, management, and control over all institutions and facilities, and the inmates therein, ~~now~~ belonging to the state penitentiary or hereafter established by the Department of Correction, **as the Division of Correction was known as prior to July 1, 2019, and known as the Division of Correction** for the custodial correction and rehabilitation of persons committed to the Department **Division** of Correction for its care, except for those institutions established by or transferred to the Department **Division** of Community Correction.

(B) Legal custody of inmates transferred to the Department **Division** of Community Correction shall remain with the Department **Division** of Correction unless altered by court order;

(5) The Department **Division** of Correction shall establish and operate classification committees, diagnosis and treatment programs, and such other programs as may be desirable to fulfill the purposes of this act;

(6) The Department **Division** of Correction shall employ such officers, employees, and agents and shall secure such offices and quarters as are deemed necessary to discharge the functions of the Department **Division** of Correction;

(7) The Department **Division** of Correction shall receive all offenders committed to the Department **Division** of Correction for conviction of felonies or other offenses, the punishment of which is commitment to the penitentiary under the laws of this state, and shall be responsible for the care, custody, and correction of such persons pursuant to policies established by the Board of Corrections;

(8) The Department **Division** of Correction shall operate all farming, livestock, industries, and other income-producing facilities of the Department **Division** of Correction and shall sell the products of its industries and farms in the manner provided by law;

(9) The Department **Division** of Correction may establish and operate regional adult detention facilities, provided funds therefor have been authorized and appropriated by the General Assembly;

(10) The Department **Division** of Correction shall cooperate with municipalities and counties in this state in providing consulting services when requested with respect to detention and correctional facilities operated by the municipalities or counties;

(11) The Department **Division** of Correction shall cooperate with law enforcement agencies of this state, the United States, institutions of this state for the detention, custody, and care of delinquent and dependent juveniles, and with all agencies and departments of this state offering services or programs of welfare, rehabilitation, and other services for the benefit of persons committed to the Department **Division** of Correction;

(12) The Department **Division** of Correction may accept gifts, grants, and funds from public and private sources with prior approval of the Board of Corrections and administer the same in furtherance of the purposes of this act;

(13)(A) The Department **Division** of Correction shall have the authority to issue warrants for the retaking of any person who, committed to its custody, unlawfully escapes therefrom.

(B) The warrant shall:

(i) Authorize all law enforcement officials of this state to take custody and return the person named therein to the custody of the ~~Department~~ **Division** of Correction; and

(ii) Authorize all law enforcement officials of this state, any other state, and the federal government to take custody and detain the person in any suitable detention facility while awaiting further transfer to the ~~Department~~ **Division** of Correction;

(14)(A)(i) Subject to the approval of the Governor, the ~~Department~~ **Division** of Correction may cooperate with and contract with the federal government, governmental agencies of Arkansas and other states, political subdivisions of Arkansas, political subdivisions of other states, counties, regional correctional facilities, and private contractors to provide and improve correctional operations and to keep custody of inmates transferred from the ~~Department~~ **Division** of Correction.

(ii) A facility owned or leased under this subdivision (b)(14) shall comply with all constitutional standards of the United States and the State of Arkansas.

(B) A county may contract for construction or operation or both with another entity to house a ~~Department~~ **Division** of Correction inmate under this subdivision (b)(14) for a period not to exceed twenty (20) years;

(15) The ~~Department~~ **Division** of Correction shall cooperate with the ~~Department~~ **Division** of Community Correction, the Parole Board, the Arkansas Sentencing Commission, judicial districts, municipalities, and counties in this state in providing guidance and services required to ensure a full range of correctional options for the state as a whole;

(16) The ~~Department~~ **Division** of Correction shall provide support to the ~~Department~~ **Division** of Community Correction as determined by the Board of Corrections;

(17) The ~~Department~~ **Division** of Correction shall assist the Board of Corrections in the furtherance of its goals by staffing the specific charges articulated for it through legislation and by the Board of Corrections; and

(18) The Department of ~~Correction~~ **Corrections** shall establish programs of research, evaluation, statistics, audit, and planning, including studies and evaluation of the performance of various functions and activities of the department and studies affecting the treatment of offenders and information about other programs.

SECTION 731. Arkansas Code § 12-27-104(d)(1)(B), concerning the members, records, and staff of the Board of Corrections, is amended to read as follows:

<< AR ST § 12-27-104 >>

(B) However, a member shall receive a per diem stipend and reimbursement for expenses for both official meetings and related activities associated with attending to the business of the Board of Corrections, the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, and the Corrections School System for up to an annual average of seven (7) days per month.

SECTION 732. Arkansas Code § 12-27-104(d)(2), concerning the members, records, and staff of the Board of Corrections, is amended to read as follows:

<< AR ST § 12-27-104 >>

(2) All expenses that may be reimbursed to members of the Board of Corrections and stipends as provided in § 25–16–901 et seq. shall be payable from the maintenance funds appropriated for the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction.

SECTION 733. Arkansas Code § 12–27–104(e), concerning the members, records, and staff of the Board of Corrections, is amended to read as follows:

<< AR ST § 12–27–104 >>

(e) The Governor shall appoint an advisory judicial group to facilitate coordination among the judicial system, the ~~Department~~ **Division** of Correction, and the ~~Department~~ **Division** of Community Correction to promote the effective and efficient use of correctional resources in furtherance of sentencing policy adopted by the General Assembly.

SECTION 734. Arkansas Code § 12–27–104(j), concerning the members, records, and staff of the Board of Corrections, is amended to read as follows:

<< AR ST § 12–27–104 >>

(j)(1) The Board of Corrections shall employ necessary staff to assist with the range and diversity of its **the charge of the Board of Corrections**.

(2) In addition to Board of Corrections staff, the Board of Corrections may reassign staff from the ~~departments~~ **divisions** it governs for either short-term or long-term service to the Board of Corrections.

SECTION 735. Arkansas Code § 12–27–105(b)(1)(A), concerning the powers and duties of the Board of Corrections, is amended to read as follows:

<< AR ST § 12–27–105 >>

(1)(A) General supervisory power and control over the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction and shall perform all functions with respect to the management and control of the adult correctional institutions and community correction options of this state contemplated by Arkansas Constitution, Amendment 33.

SECTION 736. Arkansas Code § 12–27–105(b)(3) and (4), concerning the powers and duties of the Board of Corrections, are amended to read as follows:

<< AR ST § 12–27–105 >>

(3) To review and approve budgets submitted by the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction prior to submission for executive and legislative approval;

(4) To develop and approve policy and management decisions for the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction, evaluating their impact on corrections as a whole;

SECTION 737. Arkansas Code § 12-27-105(b)(15), concerning the powers and duties of the Board of Corrections, is amended to read as follows:

<< AR ST § 12-27-105 >>

(15) To prescribe the duties of all personnel of the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction and the regulations governing the transfer of employees within each ~~department~~ **division** and between ~~departments~~ **divisions**;

SECTION 738. Arkansas Code § 12-27-105(b)(17)(E), concerning the powers and duties of the Board of Corrections, is amended to read as follows:

<< AR ST § 12-27-105 >>

(E) Economic sanction officers are to be authorized by the ~~Department~~ **Division** of Community Correction to perform these duties pursuant to policies and procedures adopted by the Board of Corrections and in accord with any state statutory accounting requirements; and

SECTION 739. Arkansas Code § 12-27-107 is amended to read as follows:

<< AR ST § 12-27-107 >>

12-27-107. Director of the ~~Department~~ **Division of Correction.**

(a) The Director of the ~~Department~~ **Division** of Correction, who shall be the executive, administrative, budgetary, and fiscal officer of the ~~Department~~ **Division** of Correction, shall be appointed by the Board of Corrections at a salary fixed by the Board of Corrections which shall not exceed the maximum salary for the position established by law.

(b) The director shall be qualified for the position by character, ability, education, training, and successful administrative experience in correctional or related fields.

(c) The director shall serve at the pleasure of the Board of Corrections.

(d) Subject to the rules, regulations, policies, and procedures prescribed by the Board of Corrections, the director shall:

(1) Administer the ~~Department~~ **Division** of Correction and supervise the administration of all institutions, facilities, and services under the jurisdiction of the ~~Department~~ **Division** of Correction;

(2) Employ such personnel as are required in the administration of the provisions of this act, provided that the employment of personnel shall be in accordance with the applicable laws and personnel regulations of the state;

(3) Institute programs for the training and development of personnel within the ~~Department~~ **Division** of Correction and have authority to suspend, discharge, or otherwise discipline personnel in accordance with policies prescribed by the Board of Corrections;

(4) Make an annual report to the Board of Corrections, which will be forwarded to the Governor and the General Assembly, on the work of the ~~Department~~ **Division** of Correction, including statistics and other data, income derived by the ~~Department~~ **Division** of Correction from agriculture, livestock, and other farming activities and from prison inmates' activities, a summary of expenditures of the ~~Department~~ **Division** of Correction, and progress reports

regarding internal issues such as inmate discipline, utilization of programming, facilities and bed space utilization, upkeep issues, and construction needs;

(5) Cooperate with the ~~Department~~ **Division** of Community Correction, the Parole Board, the Arkansas Sentencing Commission, judicial districts, counties, and municipalities to provide the guidance and services required to ensure a full range of correctional options for the state as a whole; and

(6)(A) Designate those employees of the ~~Department~~ **Division** of Correction who shall have the powers of peace officers in the enforcement of criminal laws to the extent they apply to employees, inmates, and persons on ~~Department~~ **Division** of Correction property, while participating in the search and capture of an inmate who has escaped custody, or while assisting law enforcement officers in the search and capture of any fugitive or escapee from another jurisdiction.

(B) The employees so designated have the authority to use blue rotating or flashing emergency lights on ~~Department~~ **Division** of Correction vehicles and exercise other law enforcement powers exercised by police and other law enforcement personnel.

SECTION 740. Arkansas Code § 12-27-108 is amended to read as follows:

<< AR ST § 12-27-108 >>

12-27-108. Authentication of records.

(a) For authentication of the records, process, and proceedings of the ~~Department~~ **Division** of Correction, the Director of the ~~Department~~ **Division** of Correction may adopt and keep an official seal for the use of his or her office, and the seal shall receive judicial notice in all of the courts of the state.

(b) All acts, orders, regulations, reports, and other records of the ~~department~~ **division** or copies thereof which are entitled to judicial notice shall be certified to by the director with the seal affixed thereto.

SECTION 741. Arkansas Code § 12-27-109 is amended to read as follows:

<< AR ST § 12-27-109 >>

12-27-109. Oaths of director and superintendents.

The Director of the ~~Department~~ **Division** of Correction and each of the superintendents of the institutions within the ~~Department~~ **Division** of Correction shall, before entering upon their respective duties, take and subscribe to and file in the office of the Secretary of State; an oath that he or she will support the United States Constitution and the Arkansas Constitution and faithfully perform the duties upon which he or she is about to enter.

SECTION 742. Arkansas Code § 12-27-124 is amended to read as follows:

<< AR ST § 12-27-124 >>

12-27-124. Purposes and construction of the ~~Department~~ **Division of Community Correction.**

(a)(1) The purpose of this act is to establish a ~~Department~~ **Division** of Community Correction that shall assume the management of all community correction facilities and services, execute the orders of the criminal courts of the State of Arkansas, and provide for the supervision, treatment, rehabilitation, and restoration of adult offenders as useful law-abiding citizens within the community.

(2) The ~~department~~ **division** shall be under the supervision and control of the Board of Corrections.

(3) To accomplish the objectives and purposes of this act in an effective, coordinated, and uniform manner, the ~~department~~ **division** shall be responsible for the administration of all community correction facilities, services, and means of supervision, including probation and parole or any type of post prison release or transfer.

(4) Facilities and services shall be diversified in program, construction, and staff to provide effectually and efficiently for the maximum care, supervision, and treatment of those persons accessing the ~~department~~ **division**.

(b) This act shall be liberally construed so as to effectuate its purposes.

SECTION 743. Arkansas Code § 12–27–125 is amended to read as follows:

<< AR ST § 12–27–125 >>

12–27–125. ~~Department~~ **Division of Community Correction — Creation — Powers and duties.**

(a) There is established, under the supervision, control, and direction of the Board of Corrections, a ~~Department~~ **Division** of Community Correction.

(b) The ~~Department~~ **Division** of Community Correction shall have the following functions, powers, and duties, administered in accordance with the policies, rules, and regulations promulgated by the Board of Corrections:

(1) It shall assume management and control over all properties, both real and personal, facilities, books, records, equipment, supplies, materials, contracts, funds, moneys, equities, and all other properties belonging to the Arkansas Adult Probation Commission [abolished], and all such properties ~~deemed appropriate for transfer~~ **transferred** from the Department of Correction, **as the Division of Correction was known as prior to July 1, 2019**, by the Board of Corrections;

(2)(A) It shall have management and control over all community correction services.

(B) It shall have management and control over all community correction facilities within the purview of the Board of Corrections existing on or created after July 1, 1993;

(3) It shall employ such officers, employees, and agents and shall secure such offices and quarters as deemed necessary to discharge the functions of the ~~Department~~ **Division** of Community Correction, and which are appropriately funded;

(4) It may establish and operate regional community correction facilities if funds for the regional community correction facilities have been authorized and appropriated by the General Assembly;

(5)(A) It may exercise all legally sanctioned supervision and appropriate care over all offenders referred with proper documentation from the circuit courts and all offenders transferred with proper documentation from the ~~Department~~ **Division** of Correction pursuant to policies established by the Board of Corrections and conditions set by the Parole Board.

(B) Legal custody remains with the referring court or the ~~Department~~ **Division** of Correction;

(6) It shall administer the provision of probation services for offenders processed through circuit courts;

(7) It shall administer the provision of parole services in coordination with the Parole Board and in cooperation with the ~~Department~~ **Division** of Correction;

(8) It shall provide support services to the Parole Board or its designated representatives as determined by the Parole Board;

- (9) It shall assist the Board of Corrections in the furtherance of its goals by staffing the specific charges articulated for it through legislation and by the Board of Corrections;
- (10) It shall conduct statewide public education and training to foster the provision of correctional supervision and service in community settings;
- (11) It shall provide technical assistance when necessary to any entity, program, division, or agency receiving assistance or clients through the ~~Department~~ **Division** of Community Correction;
- (12) It shall facilitate the development of a comprehensive community correction plan through the provision of funding, criteria review, and ongoing evaluation to ensure the maintenance of quality in supervision and programming;
- (13) It may accept gifts, grants, and funds from both public and private sources with prior approval of the Board of Corrections;
- (14) It shall establish minimum standards for case loads, programs, facilities, and equipment and other aspects of the operation of community correction programs and facilities necessary for the provision of adequate and effective supervision and service;
- (15) It shall establish minimum standards for the employment of community correction employees;
- (16) It shall establish programs of research, evaluation, statistics, audit, and planning, including studies and evaluation of the performance of various functions and activities of the ~~Department of Community Correction~~ **Department of Corrections** and studies affecting the treatment of offenders and information about other programs;
- (17)(A) It may receive and disburse moneys ordered to be paid by offenders pursuant to statutory economic sanctions.
- (B) It may receive fees to be levied by the courts or authorized by the Board of Corrections for participation in specified programs and to be paid by offenders on community correction.
- (C) The payment of such sanctions and fees may be a condition of probation, parole, or post prison transfer or attached to admission and participation in a community correction program.
- (D) The moneys collected shall be deposited into an earmarked account at the state level to be used solely for the continuation and expansion of community correction in this state.
- (E) Economic sanction officers are to be authorized by the ~~Department~~ **Division** of Community Correction to perform these duties pursuant to policies and procedures adopted by the Board of Corrections and in accord with any state statutory accounting requirements;
- (18) It may cooperate and contract with the federal government, with governmental agencies of Arkansas and other states, with political subdivisions of Arkansas, and with private contractors to provide and improve community correction options;
- (19) It may inspect and evaluate any community correction site and conduct audits of financial and service records at any reasonable time to determine compliance with the Board of Corrections' rules, regulations, and standards;
- (20)(A) It shall maintain a full and complete record of each offender under its supervision.
- (B)(i) To protect the integrity of a record described in subdivision (b)(20)(A) of this section and to ensure its proper use, it is unlawful to permit inspection of or disclose information contained in a record described in subdivision (b)(20)(A) of this section or to copy or issue a copy of any part of the record except:
- (a) As authorized by administrative rule;

(b) By order of a court of competent jurisdiction; or

(c) Records posted on the ~~Department~~ **Division** of Community Correction's website as required by § 12-27-145.

(ii) The rules under subdivision (b)(20)(B)(i)(a) shall provide for adequate standards of security and confidentiality of a record described in subdivision (b)(20)(A) of this section;

(21) Subject to availability of funds, it shall employ officers, employees, and agents and secure sufficient offices for monitoring each sex offender on parole or probation who is required to register under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., and who has been assessed as a risk Level 3 or Level 4 offender; and

(22)(A) It may issue an arrest warrant for the arrest of any person who, while in its custody, unlawfully escapes from the ~~Department~~ **Division** of Community Correction.

(B) The arrest warrant shall authorize:

(i) All law enforcement officers of this state to take into custody and return the person named in the arrest warrant to the custody of the ~~Department~~ **Division** of Community Correction or the ~~Department~~ **Division** of Correction; and

(ii) All law enforcement officers of this state, any other state, or the federal government to take into custody and detain the person in a suitable detention facility while awaiting further transfer to the ~~Department~~ **Division** of Community Correction or the ~~Department~~ **Division** of Correction.

SECTION 744. Arkansas Code § 12-27-126(a), concerning the Director of the Department of Community Correction, is amended to read as follows:

<< AR ST § 12-27-126 >>

(a) The Director of the ~~Department~~ **Division** of Community Correction shall be appointed by the Board of Corrections at a salary fixed by the Board of Corrections, which shall not exceed the maximum salary for the position established by law.

SECTION 745. Arkansas Code § 12-27-126(d)(1), concerning the Director of the Department of Community Correction, is amended to read as follows:

<< AR ST § 12-27-126 >>

(1) Administer the ~~Department~~ **Division** of Community Correction and supervise the administration of all facilities, programs, and services under the ~~Department~~ **Division** of Community Correction's jurisdiction;

SECTION 746. Arkansas Code § 12-27-126(d)(3)-(5), concerning the Director of the Department of Community Correction, are amended to read as follows:

<< AR ST § 12-27-126 >>

(3) Institute programs for the training and development of personnel within the ~~Department~~ **Division** of Community Correction and have authority to suspend, discharge, or otherwise discipline personnel in accordance with policies prescribed by the Board of Corrections;

(4) Make an annual report to the Board of Corrections, which will be forwarded to the Governor and the General Assembly, on the work of the ~~Department~~ **Division** of Community Correction, including statistics and other data, income derived from fee collection, a summary of expenditures of the ~~Department~~ **Division** of Community Correction, and progress reports regarding internal issues such as offender success, programming development, bed space utilization, and future needs; and

(5) Cooperate with the ~~Department~~ **Division** of Correction, the Parole Board, the Arkansas Sentencing Commission, judicial districts, counties, and municipalities to provide the guidance and services required to ensure a full range of correctional and community correction options for the state as a whole.

SECTION 747. Arkansas Code § 12-27-127(a) and (b), concerning transfers to the Department of Community Correction, are amended to read as follows:

<< AR ST § 12-27-127 >>

(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 748. Arkansas Code § 12-27-127(c)(1)(C), concerning transfers to the Department of Community Correction, is amended to read as follows:

<< AR ST § 12-27-127 >>

(C) Determined by the ~~Department~~ **Division** of Community Correction to have successfully completed its therapeutic program.

SECTION 749. Arkansas Code § 12-27-127(c)(2)(A)(i), concerning transfers to the Department of Community Correction, is amended to read as follows:

<< AR ST § 12-27-127 >>

(i) Aid the therapeutic rehabilitation of the inmates judicially or administratively transferred to the ~~Department~~ **Division** of Community Correction; and

SECTION 750. Arkansas Code § 12-27-127(c)(3) and (4), concerning transfers to the Department of Community Correction, are amended to read as follows:

<< AR ST § 12-27-127 >>

(3) This subsection does not grant the Parole Board or the ~~Department~~ **Division** of Community Correction the authority either to detain an inmate beyond the sentence imposed upon him or her by a transferring court or to shorten that sentence.

(4) An inmate may not be released from confinement under this section if the inmate was sentenced and judicially or administratively transferred to the ~~Department~~ **Division** of Community Correction at a time earlier than that which would otherwise be possible if the inmate was sentenced to the ~~Department~~ **Division** of Correction, regardless of any program completed by the inmate.

SECTION 751. Arkansas Code § 12-27-127(d), concerning transfers to the Department of Community Correction, is amended to read as follows:

<< AR ST § 12-27-127 >>

(d)(1) An inmate of the ~~Department~~ **Division** of Correction who is to be released on parole may be administratively transferred to the ~~Department~~ **Division** of Community Correction when the inmate is within eighteen (18) months of his or her projected release date for the purpose of participating in a reentry program of at least six (6) months in length.

(2) Each inmate administratively transferred under this subsection shall be thoroughly screened and approved for participation by the director or his or her designee.

(3) In accordance with rules promulgated by the Board of Corrections, upon receipt of a referral from the director or his or her designee, the Parole Board may release from incarceration an inmate who has been:

(A) Administratively transferred to the ~~Department~~ **Division** of Community Correction; and

(B) Determined by the ~~Department~~ **Division** of Community Correction to have successfully completed its reentry program.

(4) An inmate who has been administratively transferred under this subsection shall be administratively transferred back to the ~~Department~~ **Division** of Correction if he or she:

(A) Is denied parole; or

(B) Fails to complete or is removed from the reentry program.

SECTION 752. Arkansas Code § 12–27–128 is amended to read as follows:

<< AR ST § 12–27–128 >>

12–27–128. ~~Department~~ **Division of Correction Nontax Revenue Receipts Fund.**

(a) There is created in accordance with §§ 19–4–801 — 19–4–803, 19–4–804 [repealed], 19–4–805, 19–4–806, and the Revenue Classification Law, § 19–6–101 et seq. a cash fund entitled the ~~Department~~ **Division** of Correction Nontax Revenue Receipts Fund to consist of receipts for telephone calls from coinless telephones located on ~~Department~~ **Division** of Correction grounds, and from other nontax receipts not previously identified to a fund of deposit.

(b) Funds held in the ~~Department~~ **Division** of Correction Nontax Revenue Receipts Fund are to be administered and expended by the Director of the ~~Department~~ **Division** of Correction within guidelines established by the Board of Corrections for periodic transfers to other ~~department~~ **division** funds or for disbursements in support of ~~department~~ **division** operations or debt service.

(c) The ~~department~~ **division** will request cash fund appropriations in accordance with established law and procedures after a determination by the board of the usage of the ~~Department~~ **Division** of Correction Nontax Revenue Receipts Fund.

SECTION 753. Arkansas Code § 12–27–129 is amended to read as follows:

<< AR ST § 12–27–129 >>

12–27–129. Report on rehabilitation.

(a) The ~~Department~~ **Division** of Correction may report to the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs no later than December 1 of each year regarding its efforts in rehabilitating the inmate population.

(b)(1) The report may include the ~~department's~~ **division's** rehabilitative efforts regarding inmate education, specific job training, behavior modification, psychological treatment and assistance, and substance abuse programs.

(2) Further, the report is to include the amount of meritorious good time awarded inmates by the ~~department~~ **division** for the successful completion of the various rehabilitative programs.

SECTION 754. Arkansas Code § 12–27–130 is amended to read as follows:

<< AR ST § 12-27-130 >>

12-27-130. Reimbursement of county.

Notwithstanding any other provision of law or ~~Department~~ **Division** of Correction's commitment which may exist to the contrary, the Board of Corrections shall not increase any reimbursement rate for payments made to any county for the purpose of reimbursing the expenses of the care and custody of state inmates without first seeking and receiving the approval of the Governor and the Chief Fiscal Officer of the State.

SECTION 755. Arkansas Code § 12-27-131(a), concerning receipts for reimbursement for daily care of city or county prisoners, is amended to read as follows:

<< AR ST § 12-27-131 >>

(a) Receipts from cities or counties reimbursed to the ~~Department~~ **Division** of Correction for daily care of city or county prisoners shall be accounted for separately.

SECTION 756. Arkansas Code § 12-27-131(c), concerning the receipts for reimbursement to counties and cities from the Department of Correction, is amended to read as follows:

<< AR ST § 12-27-131 >>

(c) The operational portion of such receipts shall also be used for debt service unless approval is received from the ~~Director~~ **Secretary** of the Department of Finance and Administration for other usages.

SECTION 757. Arkansas Code § 12-27-132 is amended to read as follows:

<< AR ST § 12-27-132 >>

12-27-132. Award of pistol upon retirement or death.

When a ~~Department~~ **Division** of Community Correction parole or probation officer retires from service or dies while still employed with the ~~department~~ **division**, in recognition of and appreciation for the service of the retiring or deceased parole or probation officer, the ~~department~~ **division** may award the pistol carried by the officer at the time of his or her death or retirement from service to:

- (1) The parole or probation officer; or
- (2) The parole or probation officer's spouse if the spouse is eligible under applicable state and federal laws to possess a firearm.

SECTION 758. Arkansas Code § 12-27-134 is amended to read as follows:

<< AR ST § 12-27-134 >>

12-27-134. Probation services.

(a) The ~~Department~~ **Division** of Community Correction shall administer, in cooperation with the circuit courts, the provision of probation services as prescribed by the circuit courts.

(b) The ~~department~~ **division** shall establish an acceptable procedure that ensures the selection of qualified applicants to meet the needs of the circuit courts and includes subject matter experts from the circuit courts.

SECTION 759. Arkansas Code § 12–27–136 is amended to read as follows:

<< AR ST § 12–27–136 >>

12–27–136. 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 760. Arkansas Code § 12–27–137 is amended to read as follows:

<< AR ST § 12–27–137 >>

12–27–137. Confidentiality of emergency preparedness documents.

(a) The following sections of the ~~Department~~ **Division** of Correction's official Emergency Preparedness Manual are confidential and shall not be subject to disclosure under the Freedom of Information Act of 1967, § 25–19–101 et seq.:

- (1) Command Post Checklist;
- (2) Command Notifications;
- (3) Internal Notifications;
- (4) External Notifications;
- (5) Recall Notifications;
- (6) Family Notifications;
- (7) Tactical Systems;
- (8) Command Structure;
- (9) Emergency Locations;
- (10) Emergency Equipment;
- (11) Emergency Deactivation;
- (12) Emergency Plans;
- (13) Work Stoppage Directive;
- (14) Evacuation Diagrams; and
- (15) Facility Maps, Utility Locations.

(b) Any document described in subsection (a) of this section shall become available for public viewing if it becomes part of a criminal investigation, at the time that investigation is concluded and it is not otherwise exempt by law.

(c) Any amendments or additions to the sections of the manual described in subsection (a) of this section shall be reviewed annually by the Charitable, Penal and Correctional Institutions Subcommittee of the Legislative Council.

SECTION 761. Arkansas Code § 12-27-140(a)(1), concerning the Department of Community Correction Annual Report, is amended to read as follows:

<< AR ST § 12-27-140 >>

(a)(1) On July 31 of each year, the ~~Department~~ **Division** of Community Correction shall submit an annual report to the Legislative Council showing the number of persons sentenced or transferred to the ~~department~~ **division** during the fiscal year for each criminal offense classification.

SECTION 762. Arkansas Code § 12-27-140(c), concerning the Department of Community Correction Annual Report, is amended to read as follows:

<< AR ST § 12-27-140 >>

(c) The ~~department~~ **division** shall cooperate with and upon request make presentations and provide various reports, to the extent the ~~department~~ **division's** budget will allow, to the Legislative Council concerning ~~department~~ **division** policy and criteria on discretionary offender programs and services.

SECTION 763. Arkansas Code § 12-27-142(a), concerning the Department of Correction and the Department of Community Correction medical services contract, is amended to read as follows:

<< AR ST § 12-27-142 >>

(a) The ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction may enter into professional services contracts for medical services for a contract period not to exceed ten (10) years.

SECTION 764. Arkansas Code § 12-27-143 is amended to read as follows:

<< AR ST § 12-27-143 >>

12-27-143. Award of service weapon upon retirement or death.

When a ~~Department~~ **Division** of Correction employee retires from service with at least twenty (20) years of service or dies while still employed with the ~~department~~ **division**, in recognition of and appreciation for the service of the retiring or deceased employee, the ~~department~~ **division** may award the service weapon carried by the employee at the time of his or her retirement from service or death to:

- (1) The employee; or
- (2) The employee's spouse if the spouse is eligible under applicable state and federal laws to possess a firearm.

SECTION 765. Arkansas Code § 12-27-144 is amended to read as follows:

<< AR ST § 12-27-144 >>

12-27-144. Department Division of Community Correction — Receipt of grant money for certain purposes.

(a) The ~~Department~~ **Division** of Community Correction may receive money from any source to be deposited into the Accountability Court Fund to be used for adult and juvenile specialty court programs as defined under § 16-10-139,

based upon a formula to be developed by the Arkansas Judicial Council, reviewed by the Specialty Court Program Advisory Committee, and approved by the Legislative Council.

(b) The ~~department~~ **division** may promulgate rules to implement this section.

SECTION 766. Arkansas Code § 12–27–145 is amended to read as follows:

<< AR ST § 12–27–145 >>

12–27–145. Records to be posted on a public website — Definition.

(a) To the extent permitted by federal law, the ~~Department~~ **Division** of Correction shall post on the ~~Department~~ **Division** of Correction's website the following information concerning an inmate:

(1) The offense and sentence for any conviction for which the inmate is incarcerated, including:

(A) Whether the inmate is subject to a suspended sentence, if known; and

(B) The terms of the suspended sentence, if applicable;

(2)(A)(i) Beginning July 1, 2015, the disciplinary record for each inmate.

(ii) As used in this subsection, “disciplinary record” means a list of each major disciplinary violation after July 1, 2015, for which the inmate has been found guilty.

(B) Additionally, the list and the date of major disciplinary violations for which the inmate was found guilty shall be displayed during the period the inmate is being considered for transfer to parole;

(3)(A) Risk assessment scores completed after April 1, 2015.

(B) Risk assessment scores under this subdivision (a)(3) shall include the name of the state agency that completed the risk assessment, the date the risk assessment was conducted, and the level of assessment.

(C) Information by the ~~Department~~ **Division** of Correction regarding how risk assessments are scored shall also be posted;

(4) Custody status and level;

(5) Any known aliases;

(6) A current photograph of the inmate;

(7) A complete felony conviction summary to the extent that information is available to the ~~Department~~ **Division** of Correction;

(8) To the extent the information is available to the ~~Department~~ **Division** of Correction, if an order of protection, no contact order, or other order from an in-state or out-of-state court that prohibits contact or communication with another person is in place;

(9) Any programs completed by the inmate while in custody; and

(10) An inmate's parole eligibility date or date he or she is to be released from incarceration as well as a general explanation of how an inmate's parole eligibility date is calculated, including good time credits.

(b)(1) To the extent permitted by federal law, the ~~Department~~ **Division** of Community Correction shall post on the ~~Department~~ **Division** of Community Correction's website the following information concerning a probationer, parolee, or other person under the supervision of the ~~Department~~ **Division** of Community Correction who has absconded or has had a warrant issued for his or her arrest for evading supervision:

(A) Any offense and sentence for which the probationer, parolee, or other person under the supervision of the ~~Department~~ **Division** of Community Correction is being supervised, including:

(i) Whether the probationer, parolee, or other person under the supervision of the ~~Department~~ **Division** of Community Correction is subject to a suspended sentence, if known; and

(ii) The terms of the suspended sentence, if applicable;

(B) A complete felony conviction summary to the extent that information is available to the ~~Department~~ **Division** of Community Correction;

(C)(i) Risk assessment scores completed after April 1, 2015.

(ii) Risk assessment scores under this subdivision (b)(1)(C) shall include the name of the state agency that completed the risk assessment, the date the risk assessment was conducted, and the level of assessment.

(iii) Information by the ~~Department~~ **Division** of Community Correction regarding how risk assessments are scored shall also be posted;

(D) Any known aliases;

(E) A most recent photograph of the probationer, parolee, or other person under the supervision of the ~~Department~~ **Division** of Community Correction;

(F) To the extent the information is available to the ~~Department~~ **Division** of Community Correction, if an order of protection, no-contact order, or other order from an in-state or out-of-state court that prohibits contact or communication with another person is in place;

(G) All major disciplinary violations while the probationer, parolee, or other person under the supervision of the ~~Department~~ **Division** of Community Correction was incarcerated and the date of the major disciplinary violation disposition;

(H) Any programs completed by the probationer, parolee, or other person under the supervision of the ~~Department~~ **Division** of Community Correction while on supervision and the date of completion; and

(I) A list of previous revocation offenses while on probation or parole and date of revocation.

(2) The ~~Department~~ **Division** of Community Correction shall develop a plan to establish a method for a victim of a crime committed by a probationer, parolee, or other person under the supervision of the ~~Department~~ **Division** of Community Correction to directly and easily access the information listed under this subsection.

(c)(1) When possible, court-generated records listed under this section shall be electronic copies of the actual court documents.

(2) All victim information included in the court-generated records under this subsection shall be redacted.

SECTION 767. Arkansas Code § 12-27-146 is amended to read as follows:

<< AR ST § 12-27-146 >>

12-27-146. Tracking an inmate or person being supervised who is serving a suspended sentence.

(a) The Department **Division** of Community Correction shall track a person under its supervision who is serving a suspended sentence and notify the prosecuting attorney with jurisdiction over the person's suspended sentence if the department **division** knows that the person has not complied with the terms and conditions of the suspended sentence.

(b) A circuit court shall notify the department **division** of all suspended sentences to which the circuit court sentences a defendant, including the defendant's name, the terms and conditions of the suspended sentence, and the length of the suspended sentence.

SECTION 768. Arkansas Code § 12-27-147 is amended to read as follows:

<< AR ST § 12-27-147 >>

12-27-147. Rulemaking and administrative directive reporting requirement.

(a) A rule implemented by the Board of Corrections, Department **Division** of Correction, Department **Division** of Community Correction, or the Parole Board pertaining to this act shall be approved by the appropriate legislative committee before becoming effective.

(b) Any administrative directive or board policy pertaining to this act implemented by the Board of Corrections, Department **Division** of Correction, Department **Division** of Community Correction, or the Parole Board shall be reported to the Legislative Council.

SECTION 769. Arkansas Code § 12-27-148(a), concerning the confidentiality of Department of Community Correction's emergency preparedness document, is amended to read as follows:

<< AR ST § 12-27-148 >>

(a) The following sections of the Department **Division** of Community Correction's official Emergency Preparedness Manual are confidential and shall not be subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.:

- (1) Command Post Checklist;
- (2) Command Notifications;
- (3) Internal Notifications;
- (4) External Notifications;
- (5) Recall Notifications;
- (6) Family Notifications;
- (7) Tactical Systems;
- (8) Command Structure;
- (9) Emergency Locations;

- (10) Emergency Equipment;
- (11) Emergency Deactivation;
- (12) Emergency Plans;
- (13) Work Stoppage Directive;
- (14) Evacuation Diagrams; and
- (15) Facility Maps, Utility Locations.

SECTION 770. Arkansas Code § 12–27–149 is amended to read as follows:

<< AR ST § 12–27–149 >>

12–27–149. Department ~~Division~~ of Community Correction — Sufficient staffing guidelines.

For the purposes of maintaining a sufficiently trained and specialized staff of probation and parole officers, the ~~Department~~ **Division** of Community Correction shall establish staffing guidelines using evidence-based practices to develop ratios between the number of high-risk, medium-risk, and low-risk probationers and parolees and the probation officers and parole officers assigned to the high-risk, medium-risk, and low-risk probationers and parolees in order to maximize the effectiveness of the monitoring ability of the probation officers and parole officers.

SECTION 771. Arkansas Code § 12–27–202(a)(4), concerning the legislative findings and intent under the Pay-for-Success Act, is amended to read as follows:

<< AR ST § 12–27–202 >>

- (4) It is in the best interests of Arkansas residents to encourage and enable the ~~Department~~ **Division** of Community Correction to obtain financing for certain intervention services to reduce the recidivism rate in Arkansas correctional facilities.

SECTION 772. Arkansas Code § 12–27–202(b), concerning the legislative findings and intent under the Pay-for-Success Act, is amended to read as follows:

<< AR ST § 12–27–202 >>

- (b) The General Assembly intends for this subchapter to enable the ~~department~~ **division** to obtain private financing for intervention services on a pay-for-success basis to reduce the reincarceration rate in Arkansas correctional facilities.

SECTION 773. Arkansas Code § 12–27–203(2), concerning the definition of “pay-for-success program” under the Pay-for-Success Act, is amended to read as follows:

<< AR ST § 12–27–203 >>

- (2) “Pay-for-success program” means a program in which the ~~Department~~ **Division** of Community Correction pays for intervention services only if certain performance targets are met, including without limitation a reduction in the reincarceration rate in Arkansas correctional facilities through intervention measures that focus on improving personal responsibility and decision making.

SECTION 774. Arkansas Code § 12–27–204(a) and (b), concerning the Department of Community Correction pay-for-success programs, are amended to read as follows:

<< AR ST § 12–27–204 >>

(a) The ~~Department~~ **Division** of Community Correction may enter into an agreement with entities, including without limitation licensed or accredited, as applicable, community-based providers specializing in behavioral health, case management, and job placement services, and two-year or four-year public universities to create a pay-for-success program for incarcerated individuals or individuals on parole or probation that requires the ~~department~~ **division** to pay for the intervention services only if the performance targets stated in the agreement are achieved.

(b) Before entering into an agreement under subsection (a) of this section, the ~~department~~ **division** shall:

- (1) Calculate the amount and timing of the payments that would be earned by the entity providing the intervention services during each year of the agreement if the performance targets are achieved; and
- (2) Make a written determination that the agreement will result in specific performance improvements and budgetary savings if the performance targets are achieved.

SECTION 775. Arkansas Code § 12–28–101 is amended to read as follows:

<< AR ST § 12–28–101 >>

12–28–101. Facilities.

(a)(1) The ~~Department~~ **Division** of Correction, with the approval of the Board of Corrections, shall provide appropriate incarceration facilities for women, youthful offenders, and other adult offenders committed to the ~~department~~ **division** by the courts of this state.

(2) The ~~department~~ **division** shall also provide education and other rehabilitation and treatment programs designed to prepare inmates committed to the ~~department~~ **division** for productive and law-abiding lives upon release from the ~~department~~ **division**.

(3) The ~~department~~ **division** may contract with state or private entities such as accredited colleges or universities to provide additional educational opportunities for inmates under the direction and authority of the board and the Corrections School System.

(b) Any facility built or occupied by the ~~department~~ **division** for use as a correctional facility shall be given a designated name of “unit” or “center” depending on its size, location, and purpose of usage.

SECTION 776. Arkansas Code § 12–28–104 is amended to read as follows:

<< AR ST § 12–28–104 >>

12–28–104. Paroling authority.

(a) The Parole Board shall be the paroling authority for the units of the ~~Department of Correction~~ **Corrections** and shall make recommendations to the Governor in cases from the criminal courts that, in the board's opinion, the defendant in the case should be pardoned.

(b) The board shall consider the work skills, education, rehabilitation, and treatment programs recommended to the inmate upon intake and determine whether the inmate took advantage of those opportunities while incarcerated in the department in making decisions regarding parole.

SECTION 777. Arkansas Code § 12–28–105 is amended to read as follows:

<< AR ST § 12–28–105 >>

12–28–105. Continuity of care for persons released.

(a)(1) Any person incarcerated by the Department **Division** of Correction may be permitted to remain within a treatment facility operated by the department **division**, if serious physical or mental disorders or disabilities exist, until release to a similar treatment setting outside of the department **division** can be accomplished.

(2) In no case should the continuation of housing extend beyond a seventy-two-hour period.

(b) The department **division** will adopt rules to govern the housing situations.

SECTION 778. Arkansas Code § 12–28–106 is amended to read as follows:

<< AR ST § 12–28–106 >>

12–28–106. Electric fencing.

(a)(1) The Department **Division** of Correction may design and install high-voltage electrified security fence systems at all existing and proposed medium and maximum security prisons.

(2) However, at the time of installation there shall be posted universal danger signs on all sides of the system clearly visible to inmates and the public displaying in English and Spanish the warning “deadly voltage”.

(b) The installation of these fence systems shall be double, twelve-foot-high, security perimeter fences, with the exception of those locations where a building or wall constitutes a part of the security perimeter.

(c) At institutions where these fences have been installed, the department **division** shall provide perimeter patrol for the safety of the local community.

SECTION 779. Arkansas Code § 12–28–107(a), concerning training for inmates, is amended to read as follows:

<< AR ST § 12–28–107 >>

(a) As provided for in § 12–28–101, the Department **Division** of Correction shall provide education as well as training for inmates who want to acquire skills for employment upon release.

SECTION 780. Arkansas Code § 12–28–107(b)(1), concerning training for inmates, is amended to read as follows:

<< AR ST § 12–28–107 >>

(b)(1) The department **division** shall identify high-demand vocations and careers and shall accordingly create training and skills programs to prepare inmates for gainful employment upon release.

SECTION 781. Arkansas Code § 12–28–602 is amended to read as follows:

<< AR ST § 12–28–602 >>

12–28–602. Definitions.

As used in this subchapter:

- (1) “Board” means the Board of Corrections;
- (2) “County backlog” means those inmates sentenced to the ~~Department~~ **Division** of Correction who are being housed in the county jails until space is available in a prison;
- (3) “Prison” means a correctional facility operated by the ~~department~~ **division** under the supervision and direction of the board;
- (4) “Prison system” means the prison facilities of the ~~department~~ **division**; and
- (5) “Rated capacity” means the actual available bed space in the prison system as certified by the board, subject to applicable federal and state laws and the rules and regulations adopted pursuant to those laws.

SECTION 782. Arkansas Code § 12–28–604(a)(1), concerning the list of inmates eligible for early parole or discharge, is amended to read as follows:

<< AR ST § 12–28–604 >>

(a)(1) When the Board of Corrections declares a prison overcrowding state of emergency due to exceeding ninety-eight percent (98%) of the rated capacity and notifies the Director of the ~~Department~~ **Division** of Correction of the emergency as authorized, the director shall certify to the board a list of those inmates who are Class I and Class II, and the director shall indicate which inmates he or she recommends for parole, transfer, or discharge.

SECTION 783. Arkansas Code § 12–28–604(b)(1), concerning the list of inmates eligible for early parole or discharge, is amended to read as follows:

<< AR ST § 12–28–604 >>

(b)(1) When the board declares a prison overcrowding state of emergency due to the county jail backlog exceeding five hundred (500) inmates and notifies the director of the emergency as authorized, the director shall certify to the board a list of those inmates who are in Class I or Class II status who have been incarcerated in a ~~department~~ **division** facility for a minimum of six (6) months and are serving a sentence for a nonviolent offense as established by the board, and the director shall indicate which inmates he or she recommends for parole, transfer, or discharge.

SECTION 784. Arkansas Code § 12–28–702(3), concerning legislative findings and determinations under the Arkansas Boot Camp Act, is amended to read as follows:

<< AR ST § 12–28–702 >>

- (3) The ~~Department~~ **Division** of Correction should be given the authority to establish boot camps which will provide a more affordable means of punishing certain inmates who are designated as eligible for this alternative punishment by the ~~department~~ **division**.

SECTION 785. Arkansas Code § 12–29–102 is amended to read as follows:

<< AR ST § 12–29–102 >>

12–29–102. Inmates denied participation in furlough programs.

A person who is convicted of any of the following offenses shall be ineligible to participate in any meritorious furlough program conducted by or for the ~~Department~~ **Division** of Correction:

- (1) Capital murder, § 5–10–101;
- (2) Murder in the first degree, § 5–10–102;
- (3) Kidnapping, § 5–11–102;
- (4) Rape, § 5–14–103;
- (5) Any other offense concerning sexual offenses under § 5–14–101 et seq.;
- (6) An offense concerning sexual exploitation of children under the Arkansas Protection of Children Against Exploitation Act of 1979, § 5–27–301 et seq.;
- (7) An offense concerning use of children in sexual performances under § 5–27–401 et seq.; or
- (8) Stalking, § 5–71–229.

SECTION 786. Arkansas Code § 12–29–104 is amended to read as follows:

<< AR ST § 12–29–104 >>

12–29–104. Contacts with persons outside the institution.

Under rules prescribed by the ~~Department~~ **Division** of Correction, heads of the institutions of the ~~department~~ **division** may authorize:

- (1) Visits and correspondence, under reasonable conditions, between inmates and approved friends, relatives, and others;
- (2) Temporary release of an inmate for such occasions as the serious illness or death of a member of the inmate's family; or
- (3) An interview of the inmate by a prospective employer.

SECTION 787. Arkansas Code § 12–29–106(a)(1), concerning mail to and from inmates, is amended to read as follows:

<< AR ST § 12–29–106 >>

(a)(1) A person without the consent of the Director of the ~~Department~~ **Division** of Correction shall not bring into or carry out of a prison any letter or writing to or from any inmate.

SECTION 788. Arkansas Code § 12–29–110 is amended to read as follows:

<< AR ST § 12–29–110 >>

12–29–110. Selling or trading position, working condition, or promotion — Penalty.

(a) It is unlawful for any inmate or employee of the Department **Division** of Correction or any other person to sell, barter, or trade, or to promise or offer to sell, barter, or trade any favored job or position, working condition, or any promotion or demotion in any job or position at the department **division** and to:

- (1) Accept or receive any money, consideration, or thing of value therefor;
- (2) Make or accept any loan or money as inducement thereof; or
- (3) Accept or receive any favored condition or job or position at the department **division** either directly or indirectly as a result thereof.

(b)(1) A violation of this section is an unclassified felony punishable by imprisonment for not less than one (1) year nor more than five (5) years.

- (2) If the person convicted under this section is an inmate in the department **division**, the sentence shall commence to run from the expiration of the sentence under which the person is serving at the time of the violation of this section.

SECTION 789. Arkansas Code § 12–29–111 is amended to read as follows:

<< AR ST § 12–29–111 >>

12–29–111. Transport of inmate required for legal proceeding.

(a) If an inmate in the care and custody of the Department **Division** of Correction or the Department **Division** of Community Correction is required to be present during a criminal proceeding or a civil proceeding that arises from a criminal charge or conviction of any court in this state, the county sheriff of the county in which the criminal proceeding or civil proceeding takes place shall take custody of the inmate at the institution where the inmate is confined, transport the inmate to the appropriate county, and make him or her available to the court.

(b) At the conclusion of the criminal proceeding or civil proceeding, the county sheriff shall transport the inmate back to the unit of the Department **Division** of Correction or Department **Division** of Community Correction from which the inmate was received and shall return custody of the inmate to the Department **Division** of Correction or Department **Division** of Community Correction officials.

(c)(1) The county sheriff's office is responsible for the custody, sustenance, and safety of the inmate from the time the inmate is placed into its custody until the time custody of the inmate is returned to the Department **Division** of Correction or the Department **Division** of Community Correction.

- (2) The county in which the legal proceeding is held is responsible for all expenses relating to the transportation and care of the inmate.

(d) While transporting an inmate under this section, a county sheriff has the full authority of his or her office in any county of this state in matters relating to the transportation.

(e) This section does not apply to the transportation and care costs for court appearances arising from charges brought by the Department **Division** of Correction against the inmate for offenses committed while the inmate is under the custody and care of the Department **Division** of Correction.

(f)(1) When an inmate in the care and custody of the Department **Division** of Correction or the Department **Division** of Community Correction is required to be present for appearances in a civil proceeding that does not arise from a criminal

charge or conviction, the court requiring the inmate's presence may assess costs against one (1) or more of the parties to the proceeding to be paid to the Department **Division** of Correction or the Department **Division** of Community Correction to compensate the actual cost of transporting the inmate and to compensate other costs assessed by the court.

(2) Costs under this subsection shall not be assessed against the Department of Human Services if the Department of Human Services is a party to the proceeding.

SECTION 790. Arkansas Code § 12-29-112(a), concerning the discharge or release of a prisoner, is amended to read as follows:

<< AR ST § 12-29-112 >>

(a) At least one hundred twenty (120) days before an inmate's anticipated release date, the Department **Division** of Correction, in collaboration with the inmate and the Department **Division** of Community Correction and the Parole Board, shall complete a prerelease assessment and reentry plan, which may include a travel subsidy and transportation to the closest commercial transportation pick-up point.

SECTION 791. Arkansas Code § 12-29-114 is amended to read as follows:

<< AR ST § 12-29-114 >>

12-29-114. Notice of escape to victim or victim's next of kin.

(a)(1) Whenever an inmate serving a sentence for the commission of a crime escapes from the custody of the Department **Division** of Correction, it shall be the responsibility of the department **division** to immediately notify the victim of the crime or the victim's next of kin of the inmate's escape.

(2) However, the victim of the crime or the victim's next of kin will not be notified by the department **division** unless a request for the notification has previously been delivered in writing to the department **division**.

(b)(1) When notice of an escape is given by the department **division**, it shall be conveyed by telephone whenever possible and otherwise in writing to the last known address of the victim or the victim's next of kin.

(2) It shall be the responsibility of the victim or the victim's next of kin to notify the department **division** in writing of any future changes in the victim's or victim's next of kin address and telephone number.

(c) It shall be the responsibility of the prosecuting attorney of the county from which the inmate was committed to notify the victim or the victim's next of kin that an address and telephone number may be provided to the department **division**, and the procedure by which to supply information, for the purpose of notification should the inmate escape.

SECTION 792. Arkansas Code § 12-29-115 is amended to read as follows:

<< AR ST § 12-29-115 >>

12-29-115. Combination to escape — Authority of guards.

(a) The officers and guards of the Department **Division** of Correction shall use all lawful and suitable means to defend themselves, secure the persons of offenders, and prevent attempted violence and escape whenever two (2) or more inmates shall combine for the following purposes or whenever one (1) or more inmates shall:

(1) Offer violence to any officer, guard, or inmate;

- (2) Do or attempt to do any injury to any building, workshop, or appurtenance thereto;
- (3) Attempt to escape; or
- (4) Resist any lawful demand.

(b) If any of the officers or guards employed in the ~~department~~ **division** shall, in the attempt to prevent the escape of any inmate, any attempt to retake any inmate who may have escaped, or in the attempt to suppress any riot, revolt, or insurrection, take the life of any inmate, the officer or guard shall not be held responsible therefor unless it is done unnecessarily or wantonly.

SECTION 793. Arkansas Code § 12–29–201(a)–(f), concerning good time for inmates, are amended to read as follows:

<< AR ST § 12–29–201 >>

- (a) An inmate may be entitled to meritorious good time reducing his or her transfer eligibility date up to thirty (30) days for each month incarcerated after imposition of sentence in one (1) of the units, facilities, and centers maintained by the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction.
- (b) An inmate transferred or paroled to the supervision of the ~~Department~~ **Division** of Community Correction under § 16–93–615 may receive meritorious good time reducing his or her time of transfer or parole supervision up to thirty (30) days for each month he or she is under the supervision of the ~~Department~~ **Division** of Community Correction.
- (c) Meritorious good time shall be allocated under rules and regulations promulgated by the Board of Corrections and administered by the respective ~~Department~~ **Division** of Correction or ~~Department~~ **Division** of Community Correction staff subject to the provisions of this subchapter for good discipline, behavior, work practices, job responsibilities, and involvement in rehabilitative activities while in the custody or under the supervision of the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction.
- (d) Meritorious good time will not be applied to reduce the length of a sentence.
- (e)(1) Meritorious good time shall apply to an inmate's transfer eligibility date from the ~~Department~~ **Division** of Correction or a community correction facility.
 - (2) Meritorious good time shall under no circumstances reduce an inmate's time served in prison by more than one-half ($\frac{1}{2}$) of the percentage required by law for transfer eligibility.
 - (3) Meritorious good time shall under no circumstances reduce an inmate's confinement in a community correction facility by more than one-half ($\frac{1}{2}$).
- (f)(1) The ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction shall determine a date on which the inmate who has acquired the maximum amount of meritorious good time necessary is to be administratively transferred to a less restrictive placement or supervision level within the ~~Department~~ **Division** of Community Correction.
 - (2) This date will be determined in accordance with the policies developed by the Arkansas Sentencing Commission within the parameters allowed by law.

SECTION 794. Arkansas Code § 12–29–204 is amended to read as follows:

<< AR ST § 12–29–204 >>

12–29–204. Statutory good time — Maximum reduction.

No inmate sentenced to the ~~Department~~ **Division** of Correction shall ever receive a reduction under this subchapter, or this subchapter and another subchapter jointly, of more than thirty (30) days for each month served except for the additional days of meritorious good time awards authorized in § 12–29–202(d).

SECTION 795. Arkansas Code § 12–29–205(a)(1), concerning good time earned by prisoners pending transfer, is amended to read as follows:

<< AR ST § 12–29–205 >>

(a)(1) Any person who is sentenced by a circuit court to the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction and is awaiting transfer to the ~~Department~~ **Division** of Correction or ~~Department~~ **Division** of Community Correction may earn meritorious good time in accordance with law and regulations as adopted by the Board of Corrections.

SECTION 796. Arkansas Code § 12–29–205(a)(3), concerning good time earned by prisoners pending transfer, is amended to read as follows:

<< AR ST § 12–29–205 >>

(3) Meritorious good time will be calculated upon reception within the respective ~~department~~ **division**.

SECTION 797. Arkansas Code § 12–29–301(a) and (b), concerning the creation of the Corrections School System, are amended to read as follows:

<< AR ST § 12–29–301 >>

(a) Properties owned by the State of Arkansas and occupied by the various units of the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction are by this subchapter designated as a qualified school district to be known as the “Corrections School System”.

(b) The system is created for the purpose of providing elementary, secondary, and vocational and technical education to qualified persons incarcerated in facilities of the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction or to qualified persons supervised by the ~~Department~~ **Division** of Community Correction, including those on probation and parole or any type of post prison release or transfer who are not high school graduates, irrespective of age.

SECTION 798. Arkansas Code § 12–29–303 is amended to read as follows:

<< AR ST § 12–29–303 >>

12–29–303. Privileges of students — Limitations.

A school established under this subchapter and a person incarcerated who attends the school shall be entitled to certain educational privileges provided generally to common public schools and adult education programs administered by the

State Board of Education to students who attend the common public schools and adult education programs under the laws of the State of Arkansas, provided the privileges do not conflict with the rules and policies of the State Board of Education, the ~~Department~~ **Division** of Correction, and the ~~Department~~ **Division** of Community Correction or the laws of the state respecting the establishment and operation of the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction.

SECTION 799. Arkansas Code § 12–29–304 is amended to read as follows:

<< AR ST § 12–29–304 >>

12–29–304. Costs and funding.

(a) The cost of implementing and operating the Corrections School System shall be borne by the state and shall be paid from funds appropriated by the General Assembly from the general revenues of the state to the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, and the ~~Department of Education~~ **Division of Elementary and Secondary Education**, together with any federal funds that may be available for that purpose and from any funds generated from the operations of the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction, in the following manner:

(1) The cost of facilities, equipment, and current operation in excess of the amount of grants and aids received from the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall be borne by the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction as approved by the Board of Corrections; **and**

(2)(A) The system, as other school districts in the state, shall share in the distribution of grants and aids from the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(B) However, in no case shall the moneys from the Public School Fund to the system be in excess of the line item appropriation provided to the system in the fund.

(b)(1) Recognizing that the primary roles, duties, and responsibilities of the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction are to serve as penal and correctional institutions, the system shall be exempt from and shall not be penalized in any manner for not complying with:

(A) All of the following:

(i) The Quality Education Act of 2003, § 6–15–201 et seq.;

(ii) The Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6–15–401 et seq.;

(iii) Sections 6–15–901, 6–15–902, 6–15–2001 — 6–15–2008, 6–15–2101 — 6–15–2107, 6–15–2201, 6–15–2301, and 6–16–1201 — 6–16–1206;

(iv) The Arkansas Fiscal Assessment and Accountability Program, § 6–20–1901 et seq.; and

(v) The Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6–20–2201 et seq.;

(B) Any state laws or rules adopted to comply with the federal Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq., as in existence on January 1, 2005; and

(C) Any rule of the State Board of Education related to the provisions listed in this subdivision (b)(1).

(2) The system's exemption from or noncompliance with the provisions under this subsection shall not affect the system's, the ~~Department~~ **Division** of Correction's, or the ~~Department~~ **Division** of Community Correction's eligibility to apply for or receive state grants or aids for public school districts as authorized in this subchapter and related rules.

SECTION 800. Arkansas Code § 12–29–306 is amended to read as follows:

<< AR ST § 12–29–306 >>

12–29–306. Riverside Vocational and Technical School — Legislative intent.

(a) This section and §§ 12–29–307 — 12–29–310 are intended to create an additional state vocational and technical school to provide vocational and technical education and training opportunities to qualified persons incarcerated in facilities of the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction or to qualified persons supervised by the ~~Department~~ **Division** of Community Correction, including those on probation and parole or any type of post prison release or transfer.

(b) This section and §§ 12–29–307 — 12–29–310 are not intended to modify or repeal any of the laws of this state pertaining to vocational and technical schools or vocational and technical education.

SECTION 801. Arkansas Code § 12–29–307 is amended to read as follows:

<< AR ST § 12–29–307 >>

12–29–307. Riverside Vocational and Technical School — Establishment.

There is established a state vocational and technical school, to be known as the “Riverside Vocational and Technical School”, to be operated by the ~~Career Education and Workforce Development Board within~~ the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction at such facilities of the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction as may be designated by the ~~Department of Career Education in cooperation and agreement with the~~ Board of Corrections.

SECTION 802. Arkansas Code § 12–29–310(a), concerning the cost of implementation and operation of the Riverside Vocational and Technical Schools, is amended to read as follows:

<< AR ST § 12–29–310 >>

(a) The cost of implementing and operating the Riverside Vocational and Technical School at facilities of the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction as authorized by this section and §§ 12–29–306 — 12–29–309 shall be borne by the state and shall be paid from funds appropriated by the General Assembly to the school, the ~~Department of Career Education, and to~~ the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction, together with any federal funds that may be available for this purpose in the following manner:

(1) The cost of facilities and equipment in excess of the amount of moneys provided by the school and the ~~Department of Career Education~~ shall be borne by the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction as approved by the Board of Corrections; and

(2)(A) This section and §§ 12–29–306 — 12–29–309 contemplate that the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction will provide facilities for the vocational and technical education programs operated by the school.

(B) However, nothing in this section and §§ 12–29–306 — 12–29–309 shall prohibit the Career Education and Workforce Development Board from providing facilities or sharing in the cost of facilities and from providing or sharing in the cost of repairing, maintenance, and upkeep of the buildings and facilities with the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction as funds are provided by the General Assembly, or are otherwise available for these purposes.

SECTION 803. Arkansas Code § 12–29–402(a), concerning prisoner physical examination and assignment to labor, is amended to read as follows:

<< AR ST § 12–29–402 >>

(a) All prisoners committed to the ~~Department~~ **Division** of Correction shall be given a physical examination initially upon arrival and then as often as determined by medical staff of the ~~department~~ **division**.

SECTION 804. Arkansas Code § 12–29–403 is amended to read as follows:

<< AR ST § 12–29–403 >>

12–29–403. Inmates with a disability — Duty of physician.

(a)(1) Each new inmate committed to the ~~Department~~ **Division** of Correction shall be given a medical examination during the intake process.

(2)(A) During the medical examination required under subdivision (a)(1) of this section, the medical provider shall determine what restrictions, if any, shall be placed upon the inmate's work assignments.

(B) Restrictions placed upon an inmate's work assignments under subdivision (a)(2)(A) of this section shall be updated as medically necessary.

(b) The ~~department~~ **division** shall not assign an inmate to a work assignment that conflicts with a restriction determined by the medical provider for the ~~department~~ **division** under subdivision (a)(2) of this section.

(c) Whenever the medical provider updates the restrictions under subdivision (a)(2) of this section, the ~~department~~ **division** shall adjust the inmate's work assignments as necessary to comply with the updated restrictions.

SECTION 805. Arkansas Code § 12–29–404(b), concerning medical parole for terminal illness or permanent incapacitation, is amended to read as follows:

<< AR ST § 12–29–404 >>

(b) The Director of the ~~Department~~ **Division** of Correction or the Director of the ~~Department~~ **Division** of Community Correction shall communicate to the Parole Board when, in the independent opinions of either a ~~Department~~ **Division** of Correction physician or ~~Department~~ **Division** of Community Correction physician, and a consultant physician in Arkansas, an inmate is either terminally ill or permanently incapacitated and should be considered for transfer to parole supervision.

SECTION 806. Arkansas Code § 12–29–405(a), concerning inmates with mental illness, is amended to read as follows:

<< AR ST § 12-29-405 >>

(a) The ~~Department~~ **Division** of Correction authorized to develop in-house due process procedures as approved by the Board of Corrections in accordance with United States Supreme Court guidelines for the voluntary or involuntary treatment of inmates with mental illness at the facilities and programs of the Mental Health Services Section ~~of the Division of Health Treatment Services~~ of the ~~Department~~ **Division** of Correction.

SECTION 807. Arkansas Code § 12-29-405(b)(2), concerning inmates with mental illness, is amended to read as follows:

<< AR ST § 12-29-405 >>

(2) If an inmate's sentence expires while in treatment, the ~~department~~ **division** shall release the inmate or pursue involuntary admission under the appropriate procedures prescribed by existing laws governing the involuntary treatment of individuals with mental illness.

SECTION 808. Arkansas Code § 12-29-406 is amended to read as follows:

<< AR ST § 12-29-406 >>

12-29-406. Treatment for deviant sexual behavior.

(a) The purpose of this section is to enable the ~~Department~~ **Division** of Correction to establish a core program that will utilize services of medical and mental health providers in the community to provide intensive treatment of inmates with paraphilia, commonly known as sexual deviations, during their incarceration to increase their chance of returning to society successfully upon their release.

(b)(1) The Mental Health Services Section ~~of the Division of Health Treatment Services~~ of the ~~Department~~ **Division** of ~~Corrections~~ **Correction** is authorized to establish and maintain a program for intensive treatment for control of deviant sexual behavior of inmates in a specialized treatment setting and to cooperate with the medical services provider in screening for sexually transmitted diseases as part of this program.

(2) The ~~department~~ **division** may develop the program in such a manner as to utilize outside professionals from the medical and mental health fields to provide both teaching and training opportunities.

(c) The section shall adopt, promulgate, and enforce such rules, regulations, policies, and standards as may be necessary to carry out the intent and purposes of this section.

SECTION 809. Arkansas Code § 12-29-407(a), concerning suspension of inmate Medicaid, is amended to read as follows:

<< AR ST § 12-29-407 >>

(a) When an individual who is enrolled in a Medicaid program or the Health Care Independence Program is incarcerated to the custody of the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, or detained in a county jail, city jail, juvenile detention facility, or other Division of Youth Services commitment, the Department of Human Services shall suspend, to the degree feasible, the individual's coverage during the period of incarceration for up to twelve (12) months from the initial approval or renewal, unless prohibited by law.

SECTION 810. Arkansas Code § 12–29–506(b), concerning the duties of Attorney General, is amended to read as follows:

<< AR ST § 12–29–506 >>

(b) However, the Attorney General may refer to the prosecuting attorney of the county from which the inmate in the Department **Division** of Correction or the person residing in a Department **Division** of Community Correction facility was sentenced, or to the prosecuting attorney of the county in which any property or estate of the inmate or person is located, to investigate or assist in legal proceedings to obtain the reimbursements for the cost of care of the inmate or person, as authorized in this subchapter.

SECTION 811. Arkansas Code § 12–29–507(a), concerning the deposit of recovered moneys by the Department of Correction, is amended to read as follows:

<< AR ST § 12–29–507 >>

(a)(1) All moneys recovered for the cost of care of prisoners in a facility of the Department **Division** of Correction or the Department **Division** of Community Correction under this subchapter shall be deposited into the State Treasury.

(2) The Treasurer of State shall credit the moneys to the appropriate fund established by law from which appropriations to the Department **Division** of Correction or the Department **Division** of Community Correction are made for inmate care and custody at the Department **Division** of Correction or the Department **Division** of Community Correction.

SECTION 812. Arkansas Code § 12–30–101(g), concerning bartering products of institutions, is amended to read as follows:

<< AR ST § 12–30–101 >>

(g) The board may make reasonable rules and regulations governing the Department **Division** of Correction in the administration of contracts, compacts, or agreements made under the provisions of this section.

SECTION 813. Arkansas Code § 12–30–102(e), concerning the buying and selling products of institutions, is amended to read as follows:

<< AR ST § 12–30–102 >>

(e) The board may make reasonable rules and regulations governing the Department **Division** of Correction in the administration of contracts, compacts, or agreements made under the provisions of this section.

SECTION 814. Arkansas Code § 12–30–103(a), concerning the workcraft program, is amended to read as follows:

<< AR ST § 12–30–103 >>

(a) The Department **Division** of Correction and the Department **Division** of Community Correction are authorized to operate a workcraft program that offers instruction and training for their inmates, thereby helping prepare them for employment after incarceration.

SECTION 815. Arkansas Code § 12–30–104(a)(1), concerning sale of workcraft items, is amended to read as follows:

<< AR ST § 12-30-104 >>

(a)(1) The sale of items produced in the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Correction workcraft programs may be through one (1) or more retail outlets operated by the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction.

SECTION 816. Arkansas Code § 12-30-105(a), concerning the marketing contracts of the Department of Correction, is amended to read as follows:

<< AR ST § 12-30-105 >>

(a)(1) The ~~Department~~ **Division** of Correction may enter into marketing contracts with dealers, retailers, distributors, and manufacturer representatives permitting them to market and sell all products and services produced by the ~~department~~ **division** industry program in accordance with existing laws and state purchasing regulations.

(2) The Industry Division of the ~~department~~ **division** will be responsible for all billing of purchased products and services to ensure that only customers authorized by law are making said purchases.

SECTION 817. Arkansas Code § 12-30-203 is amended to read as follows:

<< AR ST § 12-30-203 >>

12-30-203. Establishment of prison industries.

The Board of Corrections may purchase, in the manner provided by law, equipment, raw materials, and supplies and engage supervisory personnel necessary to establish and maintain for this state, at the ~~Department~~ **Division** of Correction or institution under control of the board, industries for the utilization of services of prisoners in the manufacture or production of articles or products as may be needed for the construction, operation, maintenance, or use of any office, department, **division**, institution, or agency supported, in whole or in part, by this state and the political subdivisions of this state.

SECTION 818. Arkansas Code § 12-30-204 is amended to read as follows:

<< AR ST § 12-30-204 >>

12-30-204. Purchase of goods by state and local agencies.

(a)(1) All offices, departments, **divisions**, institutions, and agencies of this state which are supported in whole or in part by this state, and all political subdivisions of this state, may purchase, at the discretion of the office, department, **division**, institution, or agency, from the Board of Corrections any products required by the offices, departments, **divisions**, institutions, agencies, or political subdivisions of this state produced or manufactured by the ~~Department~~ **Division** of Correction utilizing prison labor as provided for by this subchapter.

(2)(A)(i) The Revenue Division of the Department of Finance and Administration may request that the board propose the purchase of license plates which are necessary as evidence of registration of motor vehicles and trailers to be issued by the ~~division's~~ **Revenue Division of the Department of Finance and Administration's** revenue offices.

(ii) The license plates would be produced or manufactured by the ~~Department~~ **Division** of Correction utilizing prison labor.

(B) The provisions of this subdivision (a)(2) shall be applicable beginning with the contracts for purchase or any purchases of license plates which are required after the expiration of any contracts for the purchase or manufacture of license plates that are in effect.

(b) Such offices, departments, **divisions**, institutions, and agencies shall not be required to submit an invitation for bid to the board for all products known to be produced or manufactured by the ~~Department~~ **Division** of Correction utilizing prison labor as provided for by this subchapter.

(c)(1) The ~~Department~~ **Division** of Correction may enter into an agreement with the Old State House Commission to utilize inmate labor in the production or manufacture of items for resale by the Old State House Museum.

(2) Except as provided in subdivision (c)(3) of this section, the proceeds from the sales of the items produced or manufactured under subdivision (c)(1) of this section shall be used by the Old State House Museum to:

(A) Develop exhibits and programs about the history of the ~~Department~~ **Division** of Correction; or

(B) Maintain the Old State House Museum's collection of the ~~Department~~ **Division** of Correction artifacts.

(3) The ~~Department~~ **Division** of Correction and the commission may by rule modify the use of the proceeds from the sale of items produced or manufactured under subdivision (c)(1) of this section.

(d) All purchases made pursuant to this section shall be made through the ~~Department~~ **Division** of Correction's purchasing ~~department~~ **division**, upon requisition by the proper authority of the office, department, **division**, institution, agency, or political subdivision of this state requiring the articles or products.

SECTION 819. Arkansas Code § 12–30–205 is amended to read as follows:

<< AR ST § 12–30–205 >>

12–30–205. Purchase of goods by nonprofit organizations and other individuals.

(a) A nonprofit organization may purchase goods produced by the ~~Department~~ **Division** of Correction's Industry Division as provided for by this subchapter upon the condition that the goods may not be resold for profit.

(b)(1) Goods produced by the division as provided for by this subchapter, excluding furniture and seating, may also be purchased by:

(A) Current employees and retirees of the ~~Department~~ **Division** of Correction;

(B)(i) All employees of the public offices, departments, **divisions**, institutions, school districts, and agencies of this state.

(ii) Subdivision (b)(1)(B)(i) of this section shall not include members of the General Assembly; and

(C) Current and former members of the Board of Corrections.

(2) Goods purchased by an individual under subdivision (b)(1) of this section shall be for personal use only and not for resale.

(c) Goods or products that are produced, assembled, or packaged in whole or in part by the ~~Department~~ **Division** of Correction utilizing prison labor may be sold to inmates of the ~~Department~~ **Division** of Correction, ~~Department~~ **Division** of Community Correction, or a local correctional facility.

SECTION 820. Arkansas Code § 12–30–206(b), concerning prices for items furnished to inmates, is amended to read as follows:

<< AR ST § 12–30–206 >>

(b) The prices shall be uniform and nondiscriminating to all and shall not exceed the wholesale market prices with the exception of goods or items produced, assembled, or packaged in whole or in part specifically for sale or resale to inmates of the ~~Department~~ **Division** of Correction, ~~Department~~ **Division** of Community Correction, or a local correctional facility.

SECTION 821. Arkansas Code § 12–30–210(a), concerning the annual statement of the Director of the Department of Correction, is amended to read as follows:

<< AR ST § 12–30–210 >>

(a) The Director of the ~~Department~~ **Division** of Correction and the manager or authorities, by whatever name known, having charge of the penal institutions of this state, shall annually make a full detailed statement of:

- (1) All materials, machinery, or other property procured, and the cost thereof, and the expenditures made during the last preceding year for manufacturing purposes, together with a statement of all materials then on hand to be manufactured, or in process of manufacture, or manufactured;
- (2) All machinery, fixtures, or other appurtenances for the purpose of carrying on the labor of the prisoners; and
- (3) The earnings realized during the last preceding year as the proceeds of the labor of the prisoners at the ~~Department~~ **Division** of Correction or penal institutions of this state.

SECTION 822. Arkansas Code § 12–30–215 is amended to read as follows:

<< AR ST § 12–30–215 >>

12–30–215. Purchase for construction or operation of prison.

Any contractor or subcontractor who has entered into a contract with or for the benefit of a state board, state agency, or state-supported institution of higher education for constructing, equipping, or operating, in whole or in part, any facility of the board, agency, or institution may purchase goods produced by the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction for use in the performance of the contract.

SECTION 823. Arkansas Code § 12–30–301 is amended to read as follows:

<< AR ST § 12–30–301 >>

12–30–301. Farming and livestock activities.

(a) The ~~Department~~ **Division** of Correction shall make maximum utilization of the farm lands of the various institutions of the ~~department~~ **division** through the use of modern agricultural machinery, equipment, and technology in producing crops and livestock for use in feeding prisoners and for sale on the market to produce income for the maintenance and operation of the institutions of the ~~department~~ **division**.

(b) The Director of the ~~Department~~ **Division** of Correction, with the approval of the Board of Corrections, shall promulgate necessary rules and regulations for the operation of the farming and livestock activities of the various institutions of the ~~department~~ **division**, the employment of personnel, the assignment of inmate labor, and other activities as may be reasonably necessary to accomplish the purposes as provided in this section.

SECTION 824. Arkansas Code § 12–30–303 is amended to read as follows:

<< AR ST § 12–30–303 >>

12–30–303. Cooperation of Cooperative Extension Service.

It shall be the duty of the University of Arkansas Cooperative Extension Service to cooperate with the Director of the ~~Department~~ **Division** of Correction to the end that proper crops may be planted to the best advantage and proper methods of soil treatment may be utilized and proper methods of canning and preserving may be used to the best advantage.

SECTION 825. Arkansas Code § 12–30–305(a), concerning sales by the Director of the Department of Correction, is amended to read as follows:

<< AR ST § 12–30–305 >>

(a) The Director of the ~~Department~~ **Division** of Correction, by and with the consent and approval of the Board of Corrections, shall make all sales of commodities and articles produced and offered for sale by the various penal institutions under his or her supervision.

SECTION 826. Arkansas Code § 12–30–306 is amended to read as follows:

<< AR ST § 12–30–306 >>

12–30–306. Purchases, expenditures, and sales — Compliance with laws.

(a) All purchases for or in behalf of the ~~Department~~ **Division** of Correction and its various institutions shall be in strict compliance with the state purchasing laws and applicable rules and regulations promulgated thereunder.

(b) All expenditures of funds appropriated for the ~~department~~ **division** shall be in accordance with the General Accounting and Budgetary Procedures Law, § 19–4–101 et seq., and other applicable fiscal laws of this state governing expenditure of state funds.

(c) All sales of farm products, livestock, or other products produced in connection with the agriculture and livestock activities at the respective institutions of the ~~department~~ **division** shall be in accordance with the applicable laws of this state governing the advertising for bids and awarding of contracts for the sales.

SECTION 827. Arkansas Code § 12–30–307(a) and (b), concerning the payment for food used by the Department of Correction, are amended to read as follows:

<< AR ST § 12–30–307 >>

(a) The ~~Department~~ **Division** of Correction may make payment from the ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account to the ~~Department~~ **Division** of Correction Farm Fund in an amount not to exceed fifty cents (50¢) on each dollar's worth of food produced on the ~~department~~ **division** farm for consumption in the Inmate Care and Custody Program.

(b) The department **division** shall keep appropriate records reflecting farm production and the value of farm-produced products utilized in the Inmate Care and Custody Program and shall keep records of current market values in support of any such payments.

SECTION 828. Arkansas Code § 12–30–401 is amended to read as follows:

<< AR ST § 12–30–401 >>

12–30–401. Work and rehabilitative programs — Work-release programs.

(a) All inmates committed to the Department **Division** of Correction for institutional care shall be required to participate in the various work programs to which assigned and may be afforded vocational training and rehabilitative opportunities in accordance with rules, regulations, and procedures therefor as promulgated by the Director of the Department **Division** of Correction with the approval of the Board of Corrections.

(b) The department **division** may institute “work-release” programs under which the inmates selected to participate in the programs may be gainfully employed or attend school outside of the units maintained by the department **division**, under rules and regulations promulgated by the director with the approval of the board.

SECTION 829. Arkansas Code § 12–30–402(a), concerning the establishment of new work-release centers, is amended to read as follows:

<< AR ST § 12–30–402 >>

(a) The Community Correction Revolving Fund may borrow from the Budget Stabilization Trust Fund for the establishment of new work-release centers for the Department **Division** of Correction.

SECTION 830. Arkansas Code § 12–30–404(a), concerning inmates excepted from the work-release program, is amended to read as follows:

<< AR ST § 12–30–404 >>

(a) No person shall be allowed to participate in any work-release program conducted by or for the Department **Division** of Correction if convicted of:

- (1) A capital offense;
- (2) Murder in the first degree, § 5–10–102;
- (3) Rape, § 5–14–103;
- (4) Kidnapping, § 5–11–102; or
- (5) Aggravated robbery a second or subsequent time, § 5–12–103.

SECTION 831. Arkansas Code § 12–30–405 is amended to read as follows:

<< AR ST § 12–30–405 >>

12–30–405. Contracts for inmate labor.

The Department **Division** of Correction may make contractual arrangements for use of inmate labor by the following prioritized list:

- (1) Other state departments, **divisions**, and agencies;
- (2) Counties, cities, and school districts; and
- (3) Civic organizations, other nonprofit organizations, and private citizens, including, but not limited to, those responsible for the preservation of natural resources or other public works.

SECTION 832. Arkansas Code § 12-30-407(a)(1)(A), concerning the housing of inmates in the work-release program, is amended to read as follows:

<< AR ST § 12-30-407 >>

(a)(1)(A) The Board of Corrections may promulgate rules to allow the proper classification of inmates to be released to the county sheriffs of approved jail facilities or chiefs of police or other authorized law enforcement officers of city-operated approved jail facilities or community correction centers outside the Department **Division** of Correction.

SECTION 833. Arkansas Code § 12-30-407(a)(2)(A)(ii), concerning the housing of inmates in the work-release program, is amended to read as follows:

<< AR ST § 12-30-407 >>

(ii) The Department **Division** of Correction shall review the requests and shall submit a list of inmates with appropriate skills or backgrounds for the particular job needs of the approved jail facility, political subdivision, or nonprofit organization with a chapter, committee, or other governing body that is based in the county that is being provided assistance by a political subdivision, in accordance with the Department **Division** of Correction's classification of inmates' skills and backgrounds.

SECTION 834. Arkansas Code § 12-30-407(a)(3)(B), concerning the housing of inmates in the work-release program, is amended to read as follows:

<< AR ST § 12-30-407 >>

(B) Notification of the victim or victim's family shall be done by mail to the last known address supplied to the Department **Division** of Correction in accordance with Department **Division** of Correction policies.

SECTION 835. Arkansas Code § 12-30-407(a)(4)(A), concerning the housing of inmates in the work-release program, is amended to read as follows:

<< AR ST § 12-30-407 >>

(4)(A) Inmates released under this section shall be entitled to credit on their sentences under the meritorious classification system of the Department **Division** of Correction.

SECTION 836. Arkansas Code § 12–30–502(a), concerning transportation and sale of goods produced by inmates, is amended to read as follows:

<< AR ST § 12–30–502 >>

(a) Goods produced in whole or in part by inmates of the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction participating in private sector prison industry enhancement programs may be transported and sold in the same manner as goods produced by free persons, provided that the inmates participating in the private sector prison industry enhancement programs are paid at least the minimum wage prescribed by state law.

SECTION 837. Arkansas Code § 12–41–105(c), concerning commissions from prisoner telephone service profits and prisoner commissary services, is amended to read as follows:

<< AR ST § 12–41–105 >>

(c) This section does not apply to funds derived from prisoner telephone services or prisoner commissary services provided in ~~Department~~ **Division** of Correction facilities or ~~Department~~ **Division** of Community Correction facilities or in municipally owned detention facilities or in county detention facilities in counties with a population of one hundred seventy-five thousand (175,000) or more according to the latest federal decennial census.

SECTION 838. Arkansas Code § 12–41–107(a)(2), concerning the definition of “local correctional facility” and the medical services billing to a local correctional facility, is amended to read as follows:

<< AR ST § 12–41–107 >>

(2) “Local correctional facility” means a county jail, a city jail, regional jail, criminal justice center, or county house of correction that is not operated by the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, or a federal correctional agency; and

SECTION 839. Arkansas Code § 12–41–716 is amended to read as follows:

<< AR ST § 12–41–716 >>

12–41–716. Use of board jail fund for supervision and transportation of inmates.

In addition to any other purposes for which funds in a county jail board jail fund, municipal jail board jail fund, or public instrumentality jail board jail fund may be used, the funds may be used for the transportation and supervision of inmates assigned to outside work projects or for transporting inmates to a ~~Department~~ **Division** of Correction facility, as determined by the board.

SECTION 840. Arkansas Code § 12–50–105(a), concerning regional correctional commissions, is amended to read as follows:

<< AR ST § 12–50–105 >>

(a) Political subdivisions may individually, or in combination with each other, contract with the state through the ~~Department~~ **Division** of Correction or with prison contractors for the financing, acquisition, construction, and operation of facilities for the housing of inmates.

SECTION 841. Arkansas Code § 12–50–106(a) and (b), concerning contracts for correctional facilities, are amended to read as follows:

<< AR ST § 12–50–106 >>

(a) The ~~Department~~ **Division** of Correction, any regional corrections commission, and any political subdivision are authorized to enter into contracts with each other and with prison contractors for the financing, acquiring, constructing, and operating of facilities.

(b) Any contract for the financing, acquiring, constructing, or operating of facilities between the ~~department~~ **division** and a prison contractor shall be approved by the Board of Corrections, subject to the advice and consent of the Legislative Council.

SECTION 842. Arkansas Code § 12–50–109(a)(1)(A), concerning contracts with the Arkansas Development Finance Authority, is amended to read as follows:

<< AR ST § 12–50–109 >>

(A) All revenues derived from payments to be made by the ~~Department~~ **Division** of Correction for the housing of prisoners;

SECTION 843. Arkansas Code § 12–50–111(a)(1), concerning private correctional facilities, is amended to read as follows:

<< AR ST § 12–50–111 >>

(a)(1) No private correctional facility in which inmates committed to the ~~Department~~ **Division** of Correction, out-of-state inmates, or federal inmates are to be housed shall be constructed nor shall any facility be renovated for the purpose of creating a private correctional facility in which inmates committed to the ~~Department~~ **Division** of Correction, out-of-state inmates, or federal inmates are to be housed within the state without review and approval by the Board of Corrections and review and approval by the Legislative Council.

SECTION 844. Arkansas Code § 12–51–104(a)(1), concerning the Arkansas State Council for the Interstate Commission for Adult Offender Supervision, is amended to read as follows:

<< AR ST § 12–51–104 >>

(1) One (1) nonelected person, chosen from a list of five (5) names submitted by the Director of the ~~Department~~ **Division** of Community Correction, who will act as the representative of the legislative branch of government, to be appointed by the President Pro Tempore of the Senate;

SECTION 845. Arkansas Code § 12–51–104(a)(5), concerning the Arkansas State Council for the Interstate Commission for Adult Offender Supervision, is amended to read as follows:

<< AR ST § 12–51–104 >>

(5) The Director of the ~~Department~~ **Division** of Community Correction or his or her designee who, in addition to serving as a member of the council, shall be appointed by the Governor as the compact administrator for the state.

SECTION 846. Arkansas Code § 14-22-106(16), concerning purchases exempt from soliciting bids, is amended to read as follows:

<< AR ST § 14-22-106 >>

(16) All goods and services that are regularly provided to state agencies and county government by the ~~Department~~ **Division** of Correction's various penal industries;

SECTION 847. Arkansas Code § 14-284-304(7), concerning the power and duties of the Rural Fire Protection Service of the Arkansas Forestry Commission, is amended to read as follows:

<< AR ST § 14-284-304 >>

(7) To contract with public and private sources, including the ~~Department~~ **Division** of Correction, for providing mechanical, painting, body work, or other repair services relative to the conversion, painting, and adaptation of vehicles being converted into fire protection vehicles, and to reimburse for the cost of the services;

SECTION 848. Arkansas Code § 15-5-213(b), concerning the Correction Facilities Construction Fund, is amended to read as follows:

<< AR ST § 15-5-213 >>

(b) The fund shall receive moneys payable from the Treasurer of State in accordance with § 15-5-422. All moneys deposited into the fund and all income, interest, and earnings therefrom are declared to be cash funds restricted in their use and dedicated and are to be used solely for acquisition and construction of regional correction facilities for use by the ~~Department~~ **Division** of Correction, specifically including a regional correction facility in Chicot County, which facility will be leased to and utilized by the ~~department~~ **division**.

SECTION 849. Arkansas Code § 15-5-213(e)(1)(A), concerning the Correction Facilities Construction Fund, is amended to read as follows:

<< AR ST § 15-5-213 >>

(A) Moneys payable from funds in the ~~department~~ **division** as established in § 12-27-128;

SECTION 850. Arkansas Code § 15-5-213(e)(1)(C), concerning the Correction Facilities Construction Fund, is amended to read as follows:

<< AR ST § 15-5-213 >>

(C) Such cash funds of the ~~department~~ **division** as are deemed necessary by the Chief Fiscal Officer of the State for the purposes established herein.

SECTION 851. Arkansas Code § 15–5–213(e)(2), concerning the Correction Facilities Construction Fund, is amended to read as follows:

<< AR ST § 15–5–213 >>

(2) All moneys deposited into the Correction Facilities Privatization Account and all income, interest, and earnings therefrom are declared to be cash funds restricted in their use and dedicated to be used solely for acquisition, construction, and rehabilitation of correction facilities for the use and benefit of the department **division** or for payments to private contractors for the use of correction facilities by the department **division**.

SECTION 852. Arkansas Code § 16–13–1903(a)(2)(B) and (C), concerning the Eleventh Judicial District, are amended to read as follows:

<< AR ST § 16–13–1903 >>

(B) Presiding over all matters involving acts committed by inmates of the Department **Division** of Correction over which the Eleventh Judicial District–West has jurisdiction; and

(C) Hearing all civil actions filed by inmates of the Department **Division** of Correction over which the Eleventh Judicial District–West has jurisdiction.

SECTION 853. Arkansas Code § 16–21–106(a)(1)(L), concerning assistance to victims and witnesses of crimes, is amended to read as follows:

<< AR ST § 16–21–106 >>

(L) Notice of the right to receive information from the Department of Correction **Corrections**, Arkansas State Hospital, and any other facility to which the defendant is committed by the court.

SECTION 854. Arkansas Code § 16–43–214 is amended to read as follows:

<< AR ST § 16–43–214 >>

16–43–214. Prisoner from Department **Division of Correction as witness.**

(a) Upon presentation by the prosecuting attorney or interested defense counsel of a petition duly verified and for good cause, any circuit court having jurisdiction of any criminal offense involving a felony pending for trial in that court may have jurisdiction and authority to provide by proper order for the presence in court, and for the trial and as a witness, of any person incarcerated in the Department **Division** of Correction whose testimony would be material either for the State of Arkansas or for the defendant in the action.

(b) Upon the granting of a petition by the circuit court pursuant to subsection (a) of this section and upon presentation to the authorized officials of the Department **Division** of Correction of a signed order or certified copy thereof by the circuit clerk of such court, the officials having custody of the prisoner are authorized and directed to transport or cause to be transported the prisoner by such means and methods as they deem proper, at the time and place as directed by the order of the circuit court.

(c) The custody of a prisoner sought to be used as a witness shall at all times remain in the authorized officials of the Department **Division** of Correction, subject to the order and direction of the circuit court. Immediately upon the completion of the testimony by the prisoner in court or upon the completion of the trial requiring his **or her** presence, the prisoner shall be immediately returned to the Department **Division** of Correction by the official having his **or her** custody.

SECTION 855. Arkansas Code § 16-46-106(d), concerning access to medical records, is amended to read as follows:

<< AR ST § 16-46-106 >>

(d) This section does not apply to the Department **Division** of Correction.

SECTION 856. Arkansas Code § 16-68-601 is amended to read as follows:

<< AR ST § 16-68-601 >>

16-68-601. Amount of fees and costs.

(a) If an incarcerated person, defined for purposes of this subchapter as a person who has been convicted of a crime and is imprisoned for that crime or is being held in custody for trial or sentencing, files a civil action, the court shall order the incarcerated person to pay, as a partial payment of any court filing fees and court costs required by law, a first-time payment of twenty percent (20%) of the preceding six (6) months' income from the incarcerated person's inmate account as administered by the Department **Division** of Correction or the Department **Division** of Community Correction.

(b) The Department **Division** of Correction or the Department **Division** of Community Correction shall withdraw these moneys maintained in the account for payment of the filing fees and court costs and shall forward these moneys collected at such times as the moneys exceed ten dollars (\$10.00) to the appropriate court clerk or clerks until the actual court fees are paid in full.

SECTION 857. Arkansas Code § 16-80-104(a), concerning a comprehensive mental health evaluation for a minor convicted of capital murder or murder in the first degree, is amended to read as follows:

<< AR ST § 16-80-104 >>

(a) If a comprehensive mental health evaluation is not performed at the request of the minor convicted of capital murder, § 5-10-101, or murder in the first degree, § 5-10-102, before his or her trial or before he or she is sentenced, the circuit court shall ensure that a comprehensive mental health evaluation is conducted on the minor by an adolescent mental health professional licensed in the state before the minor's entry into the Department **Division** of Correction for a sentence of life imprisonment.

SECTION 858. Arkansas Code § 16-80-104(c)(2), concerning a comprehensive mental health evaluation for a minor convicted of capital murder or murder in the first degree, is amended to read as follows:

<< AR ST § 16-80-104 >>

(2) Shall be included in any documentation or inmate file kept by the Department **Division** of Correction or, if the minor is eventually supervised on parole, the Department **Division** of Community Correction.

SECTION 859. Arkansas Code § 16-90-104 is amended to read as follows:

<< AR ST § 16-90-104 >>

16-90-104. Commitment of women for felony.

Women who are convicted of or who plead guilty to the commission of felonies may be committed to the Department of ~~Correction~~ **Corrections** by any court of criminal jurisdiction.

SECTION 860. Arkansas Code § 16-90-118 is amended to read as follows:

<< AR ST § 16-90-118 >>

16-90-118. Duty of court to report to ~~Department~~ **Division of Correction.**

(a) Whenever any person is sentenced to the ~~Department~~ **Division** of Correction, it shall be the duty of the court before which he or she has been convicted to cause to be made and transmitted to the agent of the ~~department~~ **division** a short report of the circumstances attending the offense, particularly those which tended to aggravate or extenuate the offense.

(b) The agent shall file and preserve the report.

SECTION 861. Arkansas Code § 16-90-120(a), concerning a felony committed with a firearm, is amended to read as follows:

<< AR ST § 16-90-120 >>

(a) Any person convicted of any offense that is classified by the laws of this state as a felony who employed any firearm of any character as a means of committing or escaping from the felony, in the discretion of the sentencing court, may be subjected to an additional period of confinement in the ~~Department~~ **Division** of Correction for a period not to exceed fifteen (15) years.

SECTION 862. Arkansas Code § 16-90-121 is amended to read as follows:

<< AR ST § 16-90-121 >>

16-90-121. Second or subsequent felony with firearm.

Any person who is found guilty of or pleads guilty or nolo contendere to a second or subsequent felony involving the use of a firearm shall be sentenced to a minimum term of imprisonment of ten (10) years in the ~~Department~~ **Division** of Correction without eligibility of parole or community correction transfer but subject to reduction by meritorious good-time credit.

SECTION 863. Arkansas Code § 16-90-122(a)(2), concerning the post-conviction release of nonviolent offenders, is amended to read as follows:

<< AR ST § 16-90-122 >>

(2) Been sentenced to a term of imprisonment and committed to the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction and is awaiting transfer to the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction.

SECTION 864. Arkansas Code § 16–90–122(c)(1), concerning the post-conviction release of nonviolent offenders, is amended to read as follows:

<< AR ST § 16–90–122 >>

(c)(1) The circuit judge may authorize the release under the terms and conditions that he or she determines are necessary to protect the public and to ensure the offender's return to custody upon notice that bed space is available at the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction.

SECTION 865. Arkansas Code § 16–90–802(d)(9)(B)(ii)(a), concerning the Arkansas Sentencing Commission, is amended to read as follows:

<< AR ST § 16–90–802 >>

(a) Sentences to the ~~Department~~ **Division** of Correction and ~~Department~~ **Division** of Community Correction;

SECTION 866. Arkansas Code § 16–90–802(f) and (g), concerning the Arkansas Sentencing Commission, are amended to read as follows:

<< AR ST § 16–90–802 >>

(f)(1) The commission shall employ an ~~executive~~ **a** director from candidates presented to it by the Chair of the Arkansas Sentencing Commission **in consultation with the Secretary of the Department of Corrections**.

(2) The ~~Executive~~ Director of the Arkansas Sentencing Commission shall have appropriate training and experience to assist the commission in the performance of its duties.

(3) The ~~executive~~ director shall be responsible for compiling the work of the commission and drafting suggested legislation incorporating the commission's findings for submission to the General Assembly.

(g)(1) ~~Subject to the approval of the Chair of the Arkansas Sentencing Commission, the executive director~~ **The secretary** shall employ such other staff and shall contract for services as are necessary to assist the commission in the performance of its duties, and as funds permit.

(2) The ~~executive director~~ **secretary** shall ensure that appropriate budgetary measures are taken to employ enough staff or contract for expert services and to purchase the technology needed to compile and process sentencing data from all judicial districts in a timely manner.

SECTION 867. Arkansas Code § 16–90–1109(a)(1), concerning information related to confinement or commitment, is amended to read as follows:

<< AR ST § 16–90–1109 >>

(a)(1) Upon request of the victim, the ~~Department~~ **Division** of Correction, the Arkansas State Hospital, a local or regional hospital, local or regional mental health facility, or any other facility to which the defendant is committed by the court shall:

- (A) Promptly inform the victim, through the use of the victim notification system under § 12–12–1201 et seq. or other method of personal communication, of the estimated date of the defendant's release from confinement from a court-ordered commitment under § 5–2–301 et seq., if reasonably ascertainable;
- (B) Inform the victim at least thirty (30) days before release of the defendant on furlough or to a work release, halfway house, or other community program, if applicable;
- (C) Inform the victim as soon as possible but preferably at least thirty (30) days before release of the defendant from a local or regional hospital or local or regional mental health facility, if applicable; and
- (D) Promptly inform the victim of the occurrence of any of the following events concerning the defendant:
- (i) An escape from a correctional or mental health facility or community program;
 - (ii) A recapture;
 - (iii) A decision of the Governor to commute the sentence or to pardon;
 - (iv) A release from confinement and any conditions attached to the release;
 - (v) A discharge or conditional release or modification of a previously ordered conditional release from a court-ordered commitment under § 5–2–315; or
 - (vi) The defendant's death.

SECTION 868. Arkansas Code § 16–90–1404(1)(B), concerning the definition of “completion of a person's sentence” under the Comprehensive Criminal Record Sealing Act of 2013, is amended to read as follows:

<< AR ST § 16–90–1404 >>

(B) Served any time in county or regional jail, a ~~Department~~ **Division** of Community Correction facility, or a ~~Department~~ **Division** of Correction facility in full; and

SECTION 869. Arkansas Code § 16–90–1408(a)(6), concerning felony convictions ineligible for sealing, is amended to read as follows:

<< AR ST § 16–90–1408 >>

(6) A felony for which a person served any portion of his or her sentence as an inmate in the ~~Department~~ **Division** of Correction.

SECTION 870. Arkansas Code § 16–90–201 is amended to read as follows:

<< AR ST § 16–90–201 >>

16–90–201. Punishment for second or subsequent convictions generally.

Any person convicted of an offense which is punishable by imprisonment in the ~~Department~~ **Division** of Correction who shall subsequently be convicted for another offense shall be punished as follows:

(1) If the second offense is such that, upon a first conviction, the offender could be punished by imprisonment for a term less than his or her natural life, then the sentence to imprisonment shall be for a determinate term not less than one (1) year more than the minimum sentence provided by law for a first conviction of the offense for which the defendant is being tried, and not more than the maximum sentence provided by law for this offense, unless the maximum sentence is less than the minimum sentence plus one (1) year, in which case the longer term shall govern;

(2) If the third offense is such that, upon a first conviction, the offender could be punished by imprisonment for a term less than his or her natural life, then the person shall be sentenced to imprisonment for a determinate term not less than three (3) years more than the minimum sentence provided by law for a first conviction of the offense for which the defendant is being tried, and not more than the maximum sentence provided by law for the offense, unless the maximum sentence is less than the minimum sentence plus three (3) years, in which case the longer term shall govern; and

(3)(A) If the fourth or subsequent offense is such that, upon a first conviction, the offender could be punished by imprisonment for a term less than his or her natural life, then the person shall be sentenced to imprisonment for the fourth or subsequent offense for a determinate term not less than the maximum sentence provided by law for a first conviction of the offense for which the defendant is being tried, and not more than one and one-half (1 ½) times the maximum sentence provided by law for a first conviction.

(B) However, any person convicted of a fourth or subsequent offense shall be sentenced to imprisonment for no less than five (5) years.

SECTION 871. Arkansas Code § 16–90–202(a), concerning punishment for a third conviction for certain offenses, is amended to read as follows:

<< AR ST § 16–90–202 >>

(a) When any person shall be convicted of murder, rape, carnal abuse, or kidnapping and it shall be shown that the person has been twice previously convicted of any of the above-mentioned crimes in this state or any other state, upon the third conviction the person shall be deemed an habitual criminal and shall be sentenced to life imprisonment in the Department **Division** of Correction.

SECTION 872. Arkansas Code § 16–90–401 is amended to read as follows:

<< AR ST § 16–90–401 >>

16–90–401. Delivery of copy of judgment to county sheriff.

Where a judgment of confinement, either in the Department **Division** of Correction or county jail, is pronounced, a certified copy of the judgment must be furnished forthwith to the county sheriff, who shall thereupon execute it, and no other warrant or authority is necessary to its execution.

SECTION 873. Arkansas Code § 16–90–402 is amended to read as follows:

<< AR ST § 16–90–402 >>

16–90–402. Delivery of defendant and copy of judgment to proper officials.

(a)(1) In executing a judgment of confinement, the county sheriff shall deliver the defendant with a certified standardized copy of the sentencing order to the Department **Division** of Correction, Department **Division** of Community Correction, or to another detention facility, as indicated in the sentencing order.

(2) If electronic filing of court records has been implemented by the circuit clerk in the county where the defendant's conviction occurred, the standardized copy of the sentencing order may be electronically transmitted by the circuit clerk to the Department **Division** of Correction, the Department **Division** of Community Correction, or to another detention facility, as indicated in the sentencing order.

(b) The standardized copy of the sentencing order shall be developed by representatives from the Department **Division** of Correction, the Administrative Office of the Courts, the Arkansas Sentencing Commission, and the Prosecutor Coordinator's office.

SECTION 874. Arkansas Code § 16-90-403 is amended to read as follows:

<< AR ST § 16-90-403 >>

16-90-403. Power of county sheriff to prevent escape, etc.

In conveying the defendant to the Department **Division** of Correction, the county sheriff shall have all the powers of preventing an escape, of resisting an effort to rescue the defendant, of recapturing the defendant, and of summoning persons to his or her aid that the county sheriff would have in executing a warrant of arrest in his or her county.

SECTION 875. Arkansas Code § 16-90-503 is amended to read as follows:

<< AR ST § 16-90-503 >>

16-90-503. Certification of execution.

(a) The Director of the Department **Division** of Correction shall certify the fact of the execution of the condemned felon to the clerk of the court by which the sentence was pronounced, who shall file the certificate with the papers of the case and enter it upon the records of the case.

(b) If the office of director is abolished, the duties devolving on him or her shall be performed by any other person selected by any board or commission having charge of the Department **Division** of Correction.

SECTION 876. Arkansas Code § 16-90-801(c)(2), concerning the statement of sentencing policy, is amended to read as follows:

<< AR ST § 16-90-801 >>

(2) Commitment to the Department **Division** of Correction is the most severe sanction and due to the finite capacity of the department's **division's** facilities, it should be reserved for those convicted of the most serious offenses, those who have longer criminal histories, and those who have repeatedly failed to comply with conditions imposed under less restrictive sanctions.

SECTION 877. Arkansas Code § 16-91-111 is amended to read as follows:

<< AR ST § 16-91-111 >>

16-91-111. Appeal after confinement.

(a) If a judgment of confinement in the Department **Division** of Correction has been executed before the certificate of appeal was delivered to the county sheriff whose duty it was to execute the judgment, the defendant shall remain in

the department **division** during the pendency of the appeal unless discharged by the expiration of his or her term of confinement or by pardon.

(b) Upon a reversal, if a new trial is ordered, the defendant shall be removed from the department **division** to the county jail from which he or she was brought by the county sheriff of the county.

SECTION 878. Arkansas Code § 16-92-109 is amended to read as follows:

<< AR ST § 16-92-109 >>

16-92-109. Costs and fees — Reimbursement to counties — Definition.

(a)(1) As used in this section, “costs incurred by the county” means all costs incurred by the county in bringing to trial or trials any person or persons charged with a felony offense, with a crime committed in furtherance of, or in connection with, an escape from the Department **Division** of Correction, or with escape from the Department **Division** of Correction.

(2) Costs shall include, but shall not be limited to, salaries and expenses, except normal salaries and expenses incurred by the prosecuting attorney in investigation and prosecution, by the county sheriff in investigation and custody, and by the public defender or court-appointed attorney or attorneys in investigation and defense, as well as all other costs, including the expenses involved in the trial itself.

(3) Expenses shall also include extraordinary expenses for such services as witness fees and expenses, court-appointed expert witnesses, reporter fees, costs of preparing transcripts, necessary courtroom security reasonably required to protect the court and participants, and other direct trial costs.

(4) Trial shall be deemed to include all pretrial hearings and post-conviction proceedings, if any.

(b) Whenever a trial is held in which a crime committed in furtherance of, or in connection with, an escape from the Department **Division** of Correction is charged or whenever a trial is held for escape from the custody of the Department **Division** of Correction, the county or counties responsible for the trial or trials of the person or persons charged may apply to the Director **Secretary** of the Department of Finance and Administration for reimbursement of the total costs incurred by the county or counties in each case.

(c)(1) The county responsible for the costs of the felony proceedings or trial on charges of escape or in connection with escape from the Department **Division** of Correction, shall prepare a statement of all costs incurred in connection with the proceedings, which shall be certified by the presiding judge of the circuit court or courts.

(2) The statement of costs incurred by the county or counties shall be sent to the director **secretary** together with the county's application for reimbursement.

(d)(1) The director **secretary** shall audit and examine all statements of costs incurred by the county received by him or her in accordance with this section and shall determine whether the costs included in the statements comply with the provisions of this section.

(2) The director **secretary** shall cause the amount of such costs as he or she determines comply with this section to be paid to the county or counties from the Trial Expense Assistance Fund, which is established by this section on the books of the Treasurer of State, the director **secretary**, and the Auditor of State, which shall consist of moneys transferred to the Trial Expense Assistance Fund, as costs are incurred, from the Miscellaneous Revolving Fund.

(e) The director **secretary** may make disbursements from the Trial Expense Assistance Fund to pay court-awarded attorney's fees and costs to court-appointed attorneys for indigent defendants.

SECTION 879. Arkansas Code § 16-92-112(a), concerning the liability of the state for costs and fees, is amended to read as follows:

<< AR ST § 16-92-112 >>

(a) The costs in all state prosecutions for any offenses which may be committed in or in respect of the ~~Department~~ **Division** of Correction shall be paid out of the State Treasury.

SECTION 880. Arkansas Code § 16-93-101(3)(D)(i) and (ii), concerning the definition of “detriment to the community” under the laws governing probation and parole, are amended to read as follows:

<< AR ST § 16-93-101 >>

(i) Demonstrated a documented lack of respect for authority towards law enforcement or prison officials while in the custody of the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, or a law enforcement agency; or

(ii) Accrued multiple disciplinary violations while in the custody of the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, or a law enforcement agency, including at least one (1) disciplinary violation involving violence or sexual assault while in the custody of the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, or a law enforcement agency;

SECTION 881. Arkansas Code § 16-93-101(6), concerning the definition of “jacket review” under the laws governing probation and parole, is amended to read as follows:

<< AR ST § 16-93-101 >>

(6) “Jacket review” means the review of the file of a transfer-eligible inmate located at any correctional facility in the state by an individual staff member or team of staff members of the ~~Department~~ **Division** of Community Correction for purposes of preparing the inmate's application for parole consideration by the Parole Board;

SECTION 882. Arkansas Code § 16-93-101(7), concerning the definition of “parole” under the laws governing probation and parole, is amended to read as follows:

<< AR ST § 16-93-101 >>

(7) “Parole” means the release of the prisoner into the community by the board prior to the expiration of his or her term, subject to conditions imposed by the board and to the supervision of the ~~Department~~ **Division** of Community Correction. When a court or other authority has filed a warrant against the prisoner, the board may release him or her on parole to answer the warrant of the court or authority;

SECTION 883. Arkansas Code § 16-93-101(8), concerning the definition of “probation” under the laws governing probation and parole, is amended to read as follows:

<< AR ST § 16-93-101 >>

(8) “Probation” means a procedure under which a defendant, found guilty upon verdict or plea, is released by the court without imprisonment, subject to conditions imposed by the court and subject to the supervision of the ~~Department~~ **Division** of Community Correction, but only if the supervision is requested in writing by the court;

SECTION 884. Arkansas Code § 16-93-101(9), concerning the definition of “recidivism” under the laws governing probation and parole, is amended to read as follows:

<< AR ST § 16-93-101 >>

(9) “Recidivism” means the return to incarceration in a ~~Department~~ **Division** of Correction or ~~Department~~ **Division** of Community Correction community correctional facility other than a technical violator program within a three-year period;

SECTION 885. Arkansas Code § 16-93-101(11)(A), concerning the definition of “serious conditions violation” under the laws governing probation and parole, is amended to read as follows:

<< AR ST § 16-93-101 >>

(A) An act involving a violent misdemeanor that provides the prosecuting attorney with the option to revoke the probationer's probation or parolee's parole, or allow the ~~Department~~ **Division** of Community Correction to utilize the sanctions provided under this chapter;

SECTION 886. Arkansas Code § 16-93-107(a) and (b), concerning the Medicaid eligibility of a parolee or a probationer, are amended to read as follows:

<< AR ST § 16-93-107 >>

(a) The ~~Department~~ **Division** of Correction shall screen inmates nearing release from incarceration and the ~~Department~~ **Division** of Community Correction shall screen parolees and probationers under supervision for Medicaid eligibility.

(b) If an inmate nearing release from incarceration, parolee, or probationer receives medical services, including substance abuse and mental health treatment, that meet criteria for Medicaid coverage, the parole officer, probation officer, or ~~Department~~ **Division** of Correction official or ~~Department~~ **Division** of Community Correction official may apply for Medicaid coverage for the inmate nearing release from incarceration, parolee, or probationer under this section.

SECTION 887. Arkansas Code § 16-93-107(c)(2), concerning the Medicaid eligibility of a parolee or a probationer, is amended to read as follows:

<< AR ST § 16-93-107 >>

(2) However, the parole officer, probation officer, or ~~Department~~ **Division** of Correction official or ~~Department~~ **Division** of Community Correction official shall be the authorized representative for purposes of establishing and maintaining Medicaid eligibility under this subsection if:

(A) The inmate nearing release from incarceration, parolee, or probationer does not designate an authorized representative within three (3) business days after request; or

(B) The authorized representative designated under subdivision (c)(1) of this section does not file a Medicaid application within three (3) business days after appointment and request.

SECTION 888. Arkansas Code § 16-93-107(e)(1), concerning the Medicaid eligibility of a parolee or a probationer, is amended to read as follows:

<< AR ST § 16-93-107 >>

(e)(1) The parole officer, probation officer, or ~~Department~~ **Division** of Correction official or ~~Department~~ **Division** of Community Correction official or the designee of the parole officer, probation officer, or ~~Department~~ **Division** of Correction official or ~~Department~~ **Division** of Community Correction official may access information necessary to determine if a Medicaid application has been filed on behalf of the inmate nearing release from incarceration, parolee, or probationer.

SECTION 889. Arkansas Code § 16-93-109 is amended to read as follows:

<< AR ST § 16-93-109 >>

16-93-109. Medicaid reimbursement for essential healthcare services.

Unless otherwise prohibited by law, the Department of Human Services shall cooperate with the ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction to establish protocols for utilizing Medicaid to reimburse the ~~Department~~ **Division** of Correction, ~~Department~~ **Division** of Community Correction, Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, Division of Youth Services of the Department of Human Services, a healthcare provider, or a third party for essential healthcare services, including mental health and substance abuse treatment.

SECTION 890. Arkansas Code § 16-93-207(a)(1)(B), concerning the applications for pardon, commutation of sentence, and remission of fines and forfeitures, is amended to read as follows:

<< AR ST § 16-93-207 >>

(B) The Governor shall also direct the ~~Department~~ **Division** of Correction to send notice of his or her intention to the judge, the prosecuting attorney, and the county sheriff of the county in which the applicant was convicted and, if applicable, to the victim or the victim's next of kin.

SECTION 891. Arkansas Code § 16-93-208 is amended to read as follows:

<< AR ST § 16-93-208 >>

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 892. Arkansas Code § 16-93-211(a)(1)(A), concerning early release to transitional housing facilities, is amended to read as follows:

<< AR ST § 16-93-211 >>

(A) Transferred or paroled from the Department **Division** of Correction by the Parole Board;

SECTION 893. Arkansas Code § 16-93-211(a)(1)(C), concerning early release to transitional housing facilities, is amended to read as follows:

<< AR ST § 16-93-211 >>

(C) Administratively transferred from the Department **Division** of Correction to the Department **Division** of Community Correction for participation in a reentry program.

SECTION 894. Arkansas Code § 16-93-211(e), concerning early release to transitional housing facilities, is amended to read as follows:

<< AR ST § 16-93-211 >>

(e) An offender placed in transitional housing by the board will be supervised by officers of the Department **Division** of Community Correction.

SECTION 895. Arkansas Code § 16-93-213(a)(2), concerning Parole Board records posted to a website, is amended to read as follows:

<< AR ST § 16-93-213 >>

(2) The Department **Division** of Correction identification number of the inmate;

SECTION 896. Arkansas Code § 16-93-213(a)(6), concerning Parole Board records posted to a website, is amended to read as follows:

<< AR ST § 16-93-213 >>

(6) A link to information required to be posted about the inmate by the Department **Division** of Correction under § 12-27-145.

SECTION 897. Arkansas Code § 16-93-308(b)(2), concerning the revocation of probation, is amended to read as follows:

<< AR ST § 16-93-308 >>

(2) If a defendant on probation is arrested by a probation officer employed by the ~~Department~~ **Division** of Community Correction for a violation of the defendant's probation and taken to a county jail for a reason listed under subdivision (b)(1)(B) of this section, the state shall reimburse the county for the costs of incarceration at the prevailing rate of reimbursement.

SECTION 898. Arkansas Code § 16-93-308(c)(1), concerning the revocation of probation, is amended to read as follows:

<< AR ST § 16-93-308 >>

(c)(1) A defendant arrested for violation of suspension of sentence or probation shall be taken immediately before the court that suspended imposition of sentence or, if the defendant was placed on probation, before the court supervising the probation, or, if the defendant is subject to administrative probation sanction under § 16-93-306(d), to the appropriate authority in the ~~Department~~ **Division** of Community Correction if practicable or, if transport to an appropriate authority of the ~~Department~~ **Division** of Community Correction is not practicable, then to the county jail.

SECTION 899. Arkansas Code § 16-93-308(h)(1), concerning the revocation of probation, is amended to read as follows:

<< AR ST § 16-93-308 >>

(h)(1) A court shall not revoke a suspension of sentence or probation because of a person's inability to achieve 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 gainful employment.

SECTION 900. Arkansas Code § 16-93-308(h)(2)(A), concerning the revocation of probation, is amended to read as follows:

<< AR ST § 16-93-308 >>

(2)(A) However, the court may revoke a suspension of sentence or probation if the person fails to make a good faith effort to achieve 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 gainful employment.

SECTION 901. Arkansas Code § 16-93-308(h)(2)(B)(i), concerning the revocation of probation, is amended to read as follows:

<< AR ST § 16-93-308 >>

(i) Has been enrolled in a program of instruction leading to a high school diploma or a high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services** and is attending a school or an adult education course; or

SECTION 902. Arkansas Code § 16-93-308(i)(1)(B), concerning the revocation of probation, is amended to read as follows:

<< AR ST § 16-93-308 >>

(B)(i) A defendant on probation is subject to having his or her probation revoked and being sentenced to the Department **Division** of Correction or the Department **Division** of Community Correction for a subsequent violation of his or her probation if the defendant has been confined six (6) times under § 16–93–306(d).

(ii) After a defendant on probation has been confined two (2) times under either § 16–93–306(d) or § 16–93–309(a)(4) for any combination of a technical conditions violation or serious conditions violation for any period of time, the defendant on probation is subject to having his or her probation revoked and being sentenced to the Department **Division** of Correction or the Department **Division** of Community Correction for a subsequent violation of his or her probation.

SECTION 903. Arkansas Code § 16–93–308(i)(2)(A), concerning the revocation of probation, is amended to read as follows:

<< AR ST § 16–93–308 >>

(2)(A) A defendant is subject to having his or her probation revoked under this section for a technical conditions violation or a serious conditions violation without having been sanctioned for a period of confinement set out under § 16–93–306(d) or § 16–93–309(a)(4) if upon the filing of a petition in the court with jurisdiction the Department **Division** of Community Correction or the prosecuting attorney proves by a preponderance of the evidence that the defendant is engaging in or has engaged in behavior that poses a threat to the community.

SECTION 904. Arkansas Code § 16–93–309(b)(1), concerning probation, revocation hearings, sentence alternatives, and sanctions, is amended to read as follows:

<< AR ST § 16–93–309 >>

(b)(1) A period of confinement under subdivision (a)(4) of this section may be reduced by the Department **Division** of Correction or the Department **Division** of Community Correction for good behavior and successful program completion.

SECTION 905. Arkansas Code § 16–93–309(d)(2), concerning probation, revocation hearings, sentence alternatives, and sanctions, is amended to read as follows:

<< AR ST § 16–93–309 >>

(2) Sentence the defendant to incarceration in the Department **Division** of Correction.

SECTION 906. Arkansas Code § 16–93–310(b), concerning probation, revocation and community correction programs, is amended to read as follows:

<< AR ST § 16–93–310 >>

(b) Upon revocation, the court of jurisdiction shall determine whether the offender shall remain under the jurisdiction of the court and be assigned to a more restrictive community correction program, facility, or institution for a period of time or committed to the Department **Division** of Community Correction.

SECTION 907. Arkansas Code § 16–93–310(c), concerning probation, revocation and community correction programs, is amended to read as follows:

<< AR ST § 16–93–310 >>

(c)(1) If committed to the ~~Department~~ **Division** of Correction, the court shall specify if the commitment is for judicial transfer of the offender to the ~~Department~~ **Division** of Community Correction or is a regular commitment.

(2)(A) The court shall commit the eligible offender to the custody of the ~~Department~~ **Division** of Correction under this subchapter for judicial transfer to the ~~Department~~ **Division** of Community Correction subject to the following:

(i) That the sentence imposed provides that the offender shall serve no more than three (3) years of confinement, with credit for meritorious good time, with initial placement in a ~~Department~~ **Division** of Community Correction facility; and

(ii) That the initial placement in the ~~Department~~ **Division** of Community Correction is conditioned upon the offender's continuing eligibility for ~~Department~~ **Division** of Community Correction placement and the offender's compliance with all applicable rules established by the Board of Corrections for community correction programs.

(B) Post-prison supervision shall accompany and follow community correction programming when appropriate.

SECTION 908. Arkansas Code § 16–93–601(c), concerning felonies committed prior to April 1, 1977, is amended to read as follows:

<< AR ST § 16–93–601 >>

(c) Sentence of Years. An individual sentenced to a term of years in the Department of Correction **or the Division of Correction** after February 11, 1976, and before April 1, 1977, is eligible for release on parole after he or she serves the following terms:

(1) An individual sentenced to a term of years for other than a Class Y felony who is confined in the department **or division** for the second time is eligible for release on parole after he or she serves one-third (1/3) of the time for which sentenced, with credit for good-time allowances, or one-third (1/3) of the time to which sentence is commuted by executive clemency, with credit for good-time allowances. However, a judge may require one-half (½) of the sentence as imposed, or one-half (½) of the sentence as commuted by executive clemency, to be served, with credit for good-time allowances; and

(2) An individual sentenced to a term of years who is confined in the department **or division** and who pleads guilty to or is convicted of a Class Y felony or who has previously been confined in the department **or division** two (2) or more times is eligible for release on parole after he or she serves one-half (½) of the time to which the sentence is commuted by executive clemency, with credit for good-time allowances.

SECTION 909. Arkansas Code § 16–93–607(d), concerning parole eligibility and felonies committed on or after April 1, 1983, but before January 1, 1994, is amended to read as follows:

<< AR ST § 16–93–607 >>

(d) Any person under twenty-one (21) years of age who is first convicted of a felony and committed to the first offender penal institution or to the Department of Correction, **as the Division of Correction was known as prior to July 1, 2019,**

now known as the Division of Correction, for a term of years is eligible for parole at any time unless a minimum time to be served is imposed consisting of not more than one-third (1/3) of the total time sentenced. In the event the individual is sentenced to a minimum time to be served, he or she is eligible for release on parole after serving the minimum time prescribed, with credit for good-time allowances, and for commutation by the exercise of executive clemency.

SECTION 910. Arkansas Code § 16-93-607(e), concerning parole eligibility and felonies committed on or after April 1, 1983, but before January 1, 1994, is amended to read as follows:

<< AR ST § 16-93-607 >>

(e)(1) When any convicted felon, while on parole, is convicted of another felony, the felon is to be committed to the ~~department~~ **Division of Correction** to serve the remainder of his or her original sentence, including any portion suspended, with credit for good-time allowances. Upon conviction for the subsequent felony, the court shall require the sentence for the subsequent felony to be served consecutively with the sentence for the previous felony.

(2) Any person found guilty of a felony and placed on probation or suspended sentence therefor who is subsequently found guilty of another felony committed while on probation or suspended sentence is to be committed to the ~~department~~ **division** to serve the remainder of his or her suspended sentence plus the sentence imposed for the subsequent felony. The sentence imposed for the subsequent felony is to be served consecutively with the remainder of the suspended sentence.

SECTION 911. Arkansas Code § 16-93-610(a), concerning the computation of sentence, is amended to read as follows:

<< AR ST § 16-93-610 >>

(a) Time served is deemed to begin on the day sentence is imposed, not on the day a prisoner is received by the Department of ~~Correction~~ **Corrections**. It shall continue only during the time in which a prisoner is actually confined in a county jail or other local place of lawful confinement or while under the custody and supervision of the department.

SECTION 912. Arkansas Code § 16-93-612(a), concerning parole eligibility and the date of offense, is amended to read as follows:

<< AR ST § 16-93-612 >>

(a) A person's parole eligibility shall be determined by the laws in effect at the time of the offense for which he or she is sentenced to the ~~Department~~ **Division** of Correction.

SECTION 913. Arkansas Code § 16-93-612(e)(4), concerning parole eligibility and the date of offense, is amended to read as follows:

<< AR ST § 16-93-612 >>

(4) If the felony was committed by a person who was a minor at the time of the offense, he or she was committed to the Department of Correction, **or to the Division of Correction**, and the offense occurred before, on, or after March 20, 2017, § 16-93-621 governs that person's parole eligibility.

SECTION 914. Arkansas Code § 16–93–614(c)(2), concerning parole eligibility for offenses committed after January 1, 1994, is amended to read as follows:

<< AR ST § 16–93–614 >>

(2)(A)(i)(a) An offender convicted of a target offense under the Community Correction Act, § 16–93–1201 et seq., may be committed to the ~~Department~~ **Division** of Correction and judicially transferred to the ~~Department~~ **Division** of Community Correction by specific provision in the commitment that the trial court order such a transfer.

(b) No other offender is eligible for transfer to a ~~Department~~ **Division** of Community Correction facility.

(ii) A copy of the commitment shall be forwarded immediately to the ~~Department~~ **Division** of Correction and to the ~~Department~~ **Division** of Community Correction.

(iii) In the event that an offender is sentenced to the ~~Department~~ **Division** of Correction without judicial transfer on one (1) sentence and concurrently sentenced to the ~~Department~~ **Division** of Correction with judicial transfer on another sentence, the offender shall remain in the ~~Department~~ **Division** of Correction, and the sentence with judicial transfer may be discharged in the same manner as that of an offender transferred back to the ~~Department~~ **Division** of Correction.

(B) The ~~Department~~ **Division** of Community Correction shall take over supervision of the offender in accordance with the order of the court.

(C) The ~~Department~~ **Division** of Community Correction shall provide for the appropriate disposition of the offender as expeditiously as practicable under rules and regulations developed by the Board of Corrections.

(D) The offender shall not be transported to the ~~Department~~ **Division** of Correction on the initial placement in a ~~Department~~ **Division** of Community Correction facility pursuant to a judicial transfer.

(E) An offender who is transferred back to the ~~Department~~ **Division** of Correction for disciplinary reasons may be considered for transfer to ~~Department~~ **Division** of Community Correction supervision after earning good-time credit equal to one-half ($\frac{1}{2}$) of the remainder of his or her sentence.

(F) An offender who is sentenced after July 31, 2007, and who is transferred back to the ~~Department~~ **Division** of Correction for administrative reasons is eligible for transfer to ~~Department~~ **Division** of Community Correction supervision in the same manner as an offender who is sentenced to the ~~Department~~ **Division** of Correction without a judicial transfer to the ~~Department~~ **Division** of Community Correction; and

SECTION 915. Arkansas Code § 16–93–616(a), concerning parole eligibility procedures for offenses committed after January 1, 1994 and the computation of a sentence, is amended to read as follows:

<< AR ST § 16–93–616 >>

(a)(1) Time served for a sentence shall be deemed to begin on the day sentence is imposed, not on the day a prisoner is received by the ~~Department~~ **Division** of Correction.

(2) Time served shall continue only during the time in which an individual is actually confined in a county jail or other local place of lawful confinement or while under the custody and supervision of the ~~department~~ **division**.

(3) Once sentenced to the department **division**, the department **division** shall retain legal custody of the inmate for the duration of the original sentence.

SECTION 916. Arkansas Code § 16–93–617(b) and (c), concerning parole eligibility procedures for offenses committed after January 1, 1994 and revocation of transfer, is amended to read as follows:

<< AR ST § 16–93–617 >>

(b)(1) In the event an offender transferred under this section and §§ 16–93–614 — 16–93–616, or § 16–93–618 is found to be or becomes ineligible for transfer into a Department **Division** of Community Correction facility, he or she shall be transported to Department **Division** of Correction to serve the remainder of his or her sentence.

(2) Notice of the ineligibility and the reasons therefor shall be provided to the offender, and a hearing may be requested before the board if the offender contests the factual basis of the ineligibility. Otherwise, the board may administratively approve the transfer to the Department **Division** of Correction.

(c) An offender who is judicially transferred to a Department **Division** of Community Correction facility and subsequently transferred back to the Department **Division** of Correction by the board for disciplinary or administrative reasons may not become eligible for any further transfer under § 16–93–614(c)(2)(E) and (F).

SECTION 917. Arkansas Code § 16–93–621(a)(1) and (2)(A), concerning parole eligibility for a person who was a minor at the time of committing offense, is amended to read as follows:

<< AR ST § 16–93–621 >>

16–93–621. Parole eligibility — A person who was a minor at the time of committing an offense that was committed before, on, or after March 20, 2017.

(a)(1) A minor who was convicted and sentenced to the Department of Correction **or Division of Correction** for an offense committed before he or she was eighteen (18) years of age and in which the death of another person did not occur is eligible for release on parole no later than after twenty (20) years of incarceration, including any applicable sentencing enhancements, and including an instance in which multiple sentences are to be served consecutively or concurrently, unless by law the minor is eligible for earlier parole eligibility.

(2)(A) A minor who was convicted and sentenced to the department **Department of Correction or Division of Correction** for an offense committed before he or she was eighteen (18) years of age, in which the death of another person occurred, and that was committed before, on, or after March 20, 2017, is eligible for release on parole no later than after twenty-five (25) years of incarceration if he or she was convicted of murder in the first degree, § 5–10–102, or no later than after thirty (30) years of incarceration if he or she was convicted of capital murder, § 5–10–101, including any applicable sentencing enhancements, unless by law the minor is eligible for earlier parole eligibility.

SECTION 918. Arkansas Code § 16–93–701(a)(1), concerning Parole Board authority to grant parole, is amended to read as follows:

<< AR ST § 16–93–701 >>

(a)(1) The Parole Board may release on parole any eligible inmate who is confined in any correctional institution administered by the Department **Division** of Correction or the Department **Division** of Community Correction, when in

the board's opinion there is a reasonable probability that the inmate can be released without detriment to the community or himself or herself and is able and willing to fulfill the obligations of a law-abiding citizen.

SECTION 919. Arkansas Code § 16-93-703(a), concerning Parole Board place of hearing and procedures, is amended to read as follows:

<< AR ST § 16-93-703 >>

(a) The Parole Board shall not schedule parole hearings at which victims or relatives of victims of crime are invited to appear at a facility wherein inmates are housed other than the Central Administration Building of the ~~Department~~ **Division** of Correction at Pine Bluff.

SECTION 920. Arkansas Code § 16-93-705(a)(1)(A)(ii), concerning revocation of parole, is amended to read as follows:

<< AR ST § 16-93-705 >>

(ii) The ~~Department~~ **Division** of Community Correction shall provide the information necessary for the board to issue a warrant under subdivision (a)(1)(A)(i) of this section.

SECTION 921. Arkansas Code § 16-93-705(a)(1)(B)(ii), concerning revocation of parole, is amended to read as follows:

<< AR ST § 16-93-705 >>

(ii) The ~~Department~~ **Division** of Community Correction shall provide the information necessary for the board to issue a warrant under subdivision (a)(1)(B)(i) of this section.

SECTION 922. Arkansas Code § 16-93-705(b)(5) and (6), concerning revocation of parole, are amended to read as follows:

<< AR ST § 16-93-705 >>

(5) If the parole revocation judge finds that there is reasonable cause to believe that the parolee has violated a condition of parole, the parole revocation judge may order the parolee returned to the nearest facility of the ~~Department~~ **Division** of Correction or ~~Department~~ **Division** of Community Correction where the parolee shall be placed in custody for a parole revocation hearing before the board.

(6) If the parole revocation judge finds that there is reasonable cause to believe that the parolee has violated a condition of parole, the parole revocation judge may return the parolee to parole supervision rather than to the custody of the ~~Department~~ **Division** of Correction and may impose additional supervision conditions in response to the violating conduct.

SECTION 923. Arkansas Code § 16-93-705(f), concerning revocation of parole, are amended to read as follows:

<< AR ST § 16-93-705 >>

(f) A preliminary hearing under subsection (b) of this section and a parole revocation hearing under subsection (c) of this section shall not be necessary if the parole revocation is based on the parolee's conviction, guilty plea, or plea of nolo contendere to a felony offense for which he or she is sentenced to the ~~Department~~ **Division** of Correction or to any other state or federal correctional institution.

SECTION 924. Arkansas Code § 16-93-706(b), concerning the revocation of parole and the subpoena of witnesses and documents, is amended to read as follows:

<< AR ST § 16-93-706 >>

(b) The fees and mileage expenses as prescribed by law for witnesses in civil cases shall be paid by the ~~Department~~ **Division** of Correction.

SECTION 925. Arkansas Code § 16-93-709 is amended to read as follows:

<< AR ST § 16-93-709 >>

16-93-709. Sex offender may not reside with minors.

(a) Whenever an inmate in a facility of the ~~Department~~ **Division** of Correction who has been found guilty of or has pleaded guilty or nolo contendere to any sexual offense defined in § 5-14-101 et seq., or incest as defined by § 5-26-202, and the sexual offense or incest was perpetrated against a minor, becomes eligible for parole and makes application for release on parole, the Parole Board shall prohibit, as a condition of granting the parole, the parolee from residing upon parole in a residence with any minor, unless the board makes a specific finding that the inmate poses no danger to the minors residing in the residence.

(b) If the board, upon a hearing under § 16-93-705, finds, by a preponderance of the evidence, that the parolee has failed to comply with this condition of parole, the parole may be revoked and the parolee returned to the custody of the ~~department~~ **division**.

SECTION 926. Arkansas Code § 16-93-710(a), concerning parole for inmates who have served their term of imprisonment in a county jail prior to being processed into the Department of Correction, is amended to read as follows:

<< AR ST § 16-93-710 >>

(a)(1) Subject to conditions set by the Parole Board, an offender convicted of a felony and sentenced to a term of imprisonment of two (2) years or less in the ~~Department~~ **Division** of Correction, and who has served his or her term of imprisonment in a county jail prior to being processed into the ~~Department~~ **Division** of Correction, may be paroled from the ~~Department~~ **Division** of Correction county jail backup facility directly to the ~~Department~~ **Division** of Community Correction under parole supervision, and upon eligibility determination, processed for release by the board.

(2) Transfer release proceedings or a preliminary review under this subchapter shall begin no later than six (6) months prior to a person's transfer eligibility date, and the board shall authorize jacket review procedures at all institutions holding parole-eligible inmates to prepare parole applications to comply with this time frame.

(3) The jacket review will be conducted by staff either from the ~~Department~~ **Division** of Community Correction or by ~~Department~~ **Division** of Correction.

SECTION 927. Arkansas Code § 16-93-712(b)(1), concerning Parole Board supervision of a parolee, is amended to read as follows:

<< AR ST § 16-93-712 >>

(1) Investigate each case referred to him or her by the Chair of the Parole Board, the ~~Department~~ **Division** of Community Correction, or the prosecuting attorney;

SECTION 928. Arkansas Code § 16-93-712(c), concerning Parole Board supervision of a parolee, is amended to read as follows:

<< AR ST § 16-93-712 >>

(c)(1) The ~~Department~~ **Division** of Community Correction shall allocate resources, including the assignment of parole officers, to focus on moderate-risk and high-risk offenders as determined by the validated risk-needs assessment provided in subdivision (b)(6) of this section.

(2) The ~~Department~~ **Division** of Community Correction shall require each public and private treatment and service provider that receives state funds for the treatment of or service for parolees to use evidence-based programs and practices.

SECTION 929. Arkansas Code § 16-93-712(d)(1) and (2), concerning Parole Board supervision of a parolee, are amended to read as follows:

<< AR ST § 16-93-712 >>

(d)(1) The ~~Department~~ **Division** of Community Correction shall have the authority to sanction a parolee administratively without engaging the revocation process under § 16-93-705.

(2)(A)(i) The ~~Department~~ **Division** of Community Correction shall develop an intermediate sanctions procedure and grid to guide a parole officer in determining the appropriate response to a violation of conditions of supervision.

(ii) The intermediate sanctions procedure shall include a requirement that the parole officer consider multiple factors when determining the sanction to be imposed, including previous violations and sanctions and the severity of the current and prior violation.

(B) Intermediate sanctions administered by the ~~Department~~ **Division** of Community Correction are required to conform to the sanctioning grid.

SECTION 930. Arkansas Code § 16-93-712(d)(3)(E)(i), concerning Parole Board supervision of parolee, is amended to read as follows:

<< AR ST § 16-93-712 >>

(E)(i) Incarceration in a county jail for no more than seven (7) days or incarceration in a ~~Department~~ **Division** of Community Correction facility or ~~Department~~ **Division** of Correction facility for no more than one hundred eighty (180) days.

SECTION 931. Arkansas Code § 16-93-712(d)(3)(E)(ii)(b)-(d), concerning Parole Board supervision of parolee, are amended to read as follows:

<< AR ST § 16-93-712 >>

(b) A parolee shall accumulate no more than twenty-one (21) days' incarceration in a county jail or no more than three hundred sixty (360) days' incarceration in a ~~Department~~ **Division** of Community Correction facility or ~~Department~~ **Division** of Correction facility as an intermediate sanction before the parole officer recommends a violation of the person's parole under § 16-93-706.

(c) A parolee is subject to a period of incarceration of:

(1) Up to ninety (90) days in a ~~Department~~ **Division** of Community Correction facility or ~~Department~~ **Division** of Correction facility for a technical conditions violation; and

(2) Exactly one hundred eighty (180) days in a ~~Department~~ **Division** of Community Correction or ~~Department~~ **Division** of Correction facility for a serious conditions violation.

(d) A parolee may not be incarcerated more than two (2) times as a parole sanction in a ~~Department~~ **Division** of Community Correction facility or ~~Department~~ **Division** of Correction facility.

SECTION 932. Arkansas Code § 16-93-712(f)(1), concerning Parole Board supervision of a parolee, is amended to read as follows:

<< AR ST § 16-93-712 >>

(1) May be reduced by the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction for good behavior and successful program completion; and

SECTION 933. Arkansas Code § 16-93-715(a)(2)(A), concerning parole violations, technical conditions, violations, and serious conditions is amended to read as follows:

<< AR ST § 16-93-715 >>

(2)(A) A period of confinement under subdivision (a)(1) of this section may be reduced by the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction for good behavior and successful program completion.

SECTION 934. Arkansas Code § 16–93–715(b)(2), concerning parole violations, technical conditions, violations, and serious conditions is amended to read as follows:

<< AR ST § 16–93–715 >>

(2)(A) A parolee is subject to having his or her parole revoked and being returned to the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction for the next violation of his or her parole if the parolee has been confined six (6) times under § 16–93–712(d).

(B) After a parolee has been confined two (2) times under subdivision (a)(1) of this section for any combination of a technical conditions violation or serious conditions violation for any period of time, the parolee is subject to having his or her parole revoked and being returned to the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction for the next violation of his or her parole.

(C) A parolee is subject to having his or her parole revoked and being returned to the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction under this section without having been sanctioned for a period of confinement set out under § 16–93–712(d) or subdivision (a)(1) of this section if the Parole Board determines by a preponderance of the evidence that the parolee is engaging in or has engaged in behavior that poses a threat to the community.

SECTION 935. Arkansas Code § 16–93–715(e), concerning parole violations, technical conditions, violations, and serious conditions is amended to read as follows:

<< AR ST § 16–93–715 >>

(e) Noncompliance with ~~Department~~ **Division** of Correction or ~~Department~~ **Division** of Community Correction program requirements or violent or sexual behavior while confined for a technical conditions violation or serious conditions violation under this section may result in revocation of the parolee's parole for a period of time exceeding the limitations of subdivision (a)(1) of this section, up to and including the time remaining on the person's original sentence.

SECTION 936. Arkansas Code § 16–93–1202(4)–(8), concerning definitions under the laws concerning community corrections, are amended to read as follows:

<< AR ST § 16–93–1202 >>

(4) “~~Department~~ **Division** of Community Correction” means the administrative structure in place to oversee the development and operation of community correction facilities, programs, and services, including probation and parole supervision;

(5) “~~Department~~ **Division** of Correction” means the administrative structure in place to oversee the daily operation of secure prison facilities;

(6) “Eligibility” or “eligible offender” means any person convicted of a felony who is by law eligible for such sentence or who is otherwise under the supervision of the ~~Department~~ **Division** of Community Correction and who falls within the population targeted by the General Assembly for inclusion in community correction facilities and who has not been subject to a disciplinary violation for a violent act or for sexual misconduct while in the custody of a jail or correctional facility and does not have a current or previous conviction for a violent or sexual offense listed under subdivision (10)(A)(iii) of this section;

(7) “Incarceration” means commitment to the ~~Department~~ **Division** of Correction;

(8) “Supervision” means direct supervision at varying levels of intensity by either probation officers, in the case of sentences to probation with a condition of community correction, or parole and post prison supervision officers, in the case of offenders eligible for release on parole or offenders transferred to community correction or community supervision from the ~~Department~~ **Division** of Correction;

SECTION 937. Arkansas Code § 16–93–1202(10)(C), concerning definition of “target group” under the laws concerning community corrections, is amended to read as follows:

<< AR ST § 16–93–1202 >>

(C) Final determination of eligibility for placement in any community correction center or program is the responsibility of the ~~Department~~ **Division** of Community Correction;

SECTION 938. Arkansas Code § 16–93–1202(12), concerning definition of “transfer date” under the laws concerning community corrections, is amended to read as follows:

<< AR ST § 16–93–1202 >>

(12)(A) “Transfer date” means the earliest date on which an offender is eligible for transfer from the ~~Department~~ **Division** of Correction to the ~~Department~~ **Division** of Community Correction.

(B) The date may be extended based on disciplinary behavior while under the custody of the ~~Department~~ **Division** of Correction; and

SECTION 939. Arkansas Code § 16–93–1202(13), concerning definition of “trial court” under the laws concerning community corrections, is amended to read as follows:

<< AR ST § 16–93–1202 >>

(13) “Trial court” means any court of this state having jurisdiction of an eligible offender and the power to sentence the eligible offender to the included options, subject to eligibility determination by the ~~Department~~ **Division** of Community Correction.

SECTION 940. Arkansas Code § 16–93–1203(1), concerning power and duties of the Board of Corrections, is amended to read as follows:

<< AR ST § 16–93–1203 >>

(1) Establish community correction programs to which eligible offenders may be assigned as a condition of probation, sentenced to by the trial court pursuant to this subchapter, paroled to upon release from incarceration, or transferred to after incarceration in the ~~Department~~ **Division** of Correction;

SECTION 941. Arkansas Code § 16-93-1203(6), concerning power and duties of the Board of Corrections, is amended to read as follows:

<< AR ST § 16-93-1203 >>

(6) Direct the departments, **divisions**, and other entities involved in the implementation of community correction options in a manner that will promote the safety and welfare of the people of this state;

SECTION 942. Arkansas Code § 16-93-1207(a)(1)(A) and (B), concerning order of commitment by the court, are amended to read as follows:

<< AR ST § 16-93-1207 >>

(A) Committed to the ~~Department~~ **Division** of Correction;

(B) Committed to the ~~Department~~ **Division** of Correction with judicial transfer to the ~~Department~~ **Division** of Community Correction;

SECTION 943. The introductory language of Arkansas Code § 16-93-1207(b)(1), concerning order of commitment by the court, is amended to read as follows:

<< AR ST § 16-93-1207 >>

(b)(1) Upon the successful completion of probation or a commitment to the ~~Department~~ **Division** of Correction with judicial transfer to the ~~Department~~ **Division** of Community Correction or a commitment to a county jail for one (1) of the offenses targeted by the General Assembly for community correction placement, the court may direct that the record of the offender be sealed with regards to the offense of which the offender was either convicted or placed on probation under the condition that the offender has no more than one (1) previous felony conviction and that the previous felony was other than a conviction for:

SECTION 944. Arkansas Code § 16-93-1208 is amended to read as follows:

<< AR ST § 16-93-1208 >>

16-93-1208. Post commitment transfer.

(a)(1)(A) Upon commitment of an eligible offender to the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Correction will transfer the eligible offender to a community correction program, when he or she reaches his or her transfer date, in accordance with the rules and regulations promulgated by the Board of Corrections and conditions set by the Parole Board.

(B) Legal custody of inmates transferred to the ~~Department~~ **Division** of Community Correction shall remain with the ~~Department~~ **Division** of Correction unless altered by court order.

(2) A person eligible for release from incarceration on parole may be placed in community correction programming while under parole supervision upon the recommendation of the condition by the releasing authority.

(b)(1) The Board of Corrections and the Department **Division** of Correction are authorized to release medical and psychological data in their possession to a community correction service provider concerning an eligible offender transferred to that community correction program.

(2) The community correction service provider shall use any medical or psychological data received from the Department **Division** of Correction and the Board of Corrections in compliance with rules concerning the use of that data as adopted by the Board of Corrections.

SECTION 945. Arkansas Code § 16-93-1209 is amended to read as follows:

<< AR ST § 16-93-1209 >>

16-93-1209. Liability.

The Department **Division** of Correction, the Board of Corrections, the Department **Division** of Community Correction, the Parole Board, and all governmental agencies and units utilizing eligible offenders in community correction programs as defined in this subchapter are immune from liability and suit for damages, and no tort action shall lie against the Department **Division** of Correction, the Board of Corrections, the Department **Division** of Community Correction, the Parole Board, and any governmental agency or unit or any of their employees because of any acts of eligible offenders utilized under the provisions of this subchapter.

SECTION 946. Arkansas Code § 16-93-1602(3)(A), concerning the definition of “transitional housing” under the laws concerning traditional housing facilities, is amended to read as follows:

<< AR ST § 16-93-1602 >>

(3)(A) “Transitional housing” means a program that provides housing for one (1) or more offenders who either have been transferred or paroled from the Department **Division** of Correction by the Parole Board or placed on probation by a circuit court or district court.

SECTION 947. Arkansas Code § 16-95-105 is amended to read as follows:

<< AR ST § 16-95-105 >>

16-95-105. Escape — Penalty.

Any prisoner who shall escape from custody while in another state or jurisdiction pursuant to the Agreement on Detainers shall be guilty of a felony and upon conviction shall be sentenced to a term of not less than three (3) years nor more than five (5) years in the Department **Division** of Correction.

SECTION 948. Arkansas Code § 16-98-303(a)(5), concerning authorization of drug court programs, is amended to read as follows:

<< AR ST § 16-98-303 >>

(5) As determined by the Department **Division** of Community Correction, an adult drug court program established under this section shall target high-risk offenders and medium-risk offenders.

SECTION 949. Arkansas Code § 16-98-303(b)(1) and (2), concerning authorization of drug court programs, are amended to read as follows:

<< AR ST § 16-98-303 >>

(b)(1) A drug court program shall incorporate services from the ~~Department~~ **Division** of Community Correction, the Department of Human Services, and the Administrative Office of the Courts.

(2) Subject to an appropriation, funding, and position authorization, both programmatic and administrative, and subject to the requirements of eligibility as defined in § 16-93-1202, the ~~Department~~ **Division** of Community Correction:

(A) Shall:

- (i) Establish standards regarding the classification of a drug court program participant as a high-risk offender or medium-risk offender;
- (ii) Provide positions for persons to serve as probation officers, drug counselors, and administrative assistants;
- (iii) Provide for drug testing for drug court program participants;
- (iv) Provide for intensive outpatient treatment for drug court program participants;
- (v) Provide for intensive short-term and long-term residential treatment for drug court program participants; and
- (vi) Develop clinical assessment capacity, including drug testing, to identify a drug court program participant with a substance addiction and develop a treatment protocol that improves the drug court program participant's likelihood of success; and

(B) May:

- (i) Provide for continuous alcohol monitoring for drug court program participants, including a minimum period of one hundred twenty (120) days; and
- (ii) Develop clinical assessment capacity, including continuous alcohol monitoring, to identify a drug court program participant with a substance addiction and develop a treatment protocol that improves the drug court program participant's likelihood of success.

SECTION 950. Arkansas Code § 16-98-303(b)(4)(E)(iii), concerning authorization of drug court programs, are amended to read as follows:

<< AR ST § 16-98-303 >>

(iii) Existing drug treatment programs currently in place and operating through the courts, the county jail, or the ~~Department~~ **Division** of Correction; and

SECTION 951. Arkansas Code § 16–98–303(e)(2)–(4), concerning the authorization of drug court programs, are amended to read as follows:

<< AR ST § 16–98–303 >>

(2) Department of Education **Division of Elementary and Secondary Education**;

(3) Department of Career Education **Adult Education Section of the Division of Workforce Services**;

(4) Department **Division** of Community Correction; and

SECTION 952. Arkansas Code § 16–98–303(f)(2), concerning authorization of drug court programs, are amended to read as follows:

<< AR ST § 16–98–303 >>

(2) Serve as a coordinator between drug court judges, the Department **Division** of Community Correction, the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, private treatment provider representatives, and public health advocates;

SECTION 953. Arkansas Code § 16–99–101 is amended to read as follows:

<< AR ST § 16–99–101 >>

16–99–101. Purpose and intent.

(a) Both state and local agencies that implement criminal justice practices resulting in outcomes that reduce commitments to the Department **Division** of Correction should be rewarded.

(b) If a state agency, county, or judicial district has implemented proven risk-reduction strategies that reduce the number of offenders returning to the Department **Division** of Correction with no resultant increase in the crime rate; then, in order to reward the state agency, county, or judicial district and as an incentive to encourage similar practices elsewhere, the state agency, county, or judicial district should receive a monetary reward to continue those practices.

(c) The award would represent a portion of the monetary savings from the costs that would have been incurred had the state agency, county, or judicial district not reduced its impact on the Department **Division** of Correction.

(d) The goal of this subchapter is to align state and local fiscal incentives by rewarding the Department **Division** of Community Correction, county governments, and judicial districts for each entity's role in reducing its impact on the Department **Division** of Correction.

SECTION 954. Arkansas Code § 16–99–102 is amended to read as follows:

<< AR ST § 16–99–102 >>

16–99–102. Program authorized — Administration.

(a) Costs averted due to a reduction in commitments to the Department **Division** of Correction or a reduction in the period of time served in the Department **Division** of Correction, to the extent possible, shall be reinvested into those

state agencies, counties, or judicial districts as an incentive to further the crime and recidivism reduction strategies being employed.

(b) The ~~Department~~ **Division** of Community Correction shall be the recipient of incentive funds upon meeting the requirements set out in this subchapter.

(c)(1) Counties, multicounty partnerships, and judicial districts shall be eligible to apply for participation in the performance incentive funding program set out in this subchapter on the reduction in the ~~Department~~ **Division** of Correction's population.

(2) Participation in the program will be determined through a competitive grant process.

(d) The Board of Corrections shall have the authority to manage the program and administer the grant funds to appropriate applicants and the ~~Department~~ **Division** of Community Correction.

(e)(1) Subject to the available funding, the ~~Department~~ **Division** of Community Correction shall manage and administer grant funds to itself and counties, multicounty partnerships, and judicial districts in order to implement the policies and programs authorized by this program.

(2) These shall be one-time-only grants not contingent on measured performance.

(3) All future funding under this section shall be tied to measured performance.

SECTION 955. Arkansas Code § 16-99-103(a)(1), concerning an application for parole revocation, is amended to read as follows:

<< AR ST § 16-99-103 >>

(a)(1) The ~~Department~~ **Division** of Community Correction shall receive additional funding for committing to a reduction in the number of probation revocations that result from a technical violation or a new crime.

SECTION 956. Arkansas Code § 16-99-103(a)(4) and (5), concerning an application for parole revocation, are amended to read as follows:

<< AR ST § 16-99-103 >>

(4) Each year the ~~Department~~ **Division** of Community Correction shall receive additional funds for reducing the net impact of revocations on the ~~Department~~ **Division** of Correction.

(5) The ~~Department~~ **Division** of Community Correction shall promulgate rules and regulations for the distribution and use of incentive funds that it receives, requiring that:

(A) No less than one-third (1/3) of the funds received each year are distributed to the individual probation or parole areas responsible for the revocation reductions while maintaining or improving public safety; and

(B) All of the funds received by the ~~Department~~ **Division** of Community Correction are invested in programs and practices designed to reduce recidivism.

SECTION 957. Arkansas Code § 16-99-103(b)(1), concerning an application for parole revocation, is amended to read as follows:

<< AR ST § 16-99-103 >>

(b)(1) A competitive grant process will distribute grants to five (5) individual counties, multicounty partnerships, or judicial districts that meet criteria established to improve public safety and reduce their net impact on the ~~Department~~ **Division** of Correction.

SECTION 958. Arkansas Code § 16-99-103(b)(4)-(6), concerning an application for parole revocation, are amended to read as follows:

<< AR ST § 16-99-103 >>

(4) Four (4) of the five (5) grants shall be awarded to the counties, multicounty partnerships, or judicial districts with the largest number of annual ~~Department~~ **Division** of Correction commitments that meet the program criteria and submit acceptable applications.

(5) One (1) grant shall be awarded to a county, multicounty partnership, or judicial district representing a rural region of the state, notwithstanding the number of ~~Department~~ **Division** of Correction commitments from the applicant so long as the program criteria are met and the application is acceptable.

(6) Each year, the grant recipient shall receive additional funds equal to one-half (½) of the averted costs for reducing the net impact of its sentences on the ~~Department~~ **Division** of Correction.

SECTION 959. Arkansas Code § 16-99-104(2), concerning the implementation of rules by the Board of Corrections, is amended to read as follows:

<< AR ST § 16-99-104 >>

(2) Calculate and determine the baseline for the ~~Department~~ **Division** of Community Correction's revocation rate and for the ~~Department~~ **Division** of Correction's commitments' length of stay for evaluation purposes; and

SECTION 960. Arkansas Code § 16-99-105(a)(1), concerning reporting and data collection by the Department of Community Correction, is amended to read as follows:

<< AR ST § 16-99-105 >>

(a)(1) The ~~Department~~ **Division** of Community Correction shall provide data and information as requested by the Board of Corrections.

SECTION 961. Arkansas Code § 16-99-105(a)(2)(A), concerning reporting and data collection by the Department of Community Correction, is amended to read as follows:

<< AR ST § 16-99-105 >>

(A) The total number of probationers from each of ~~Department~~ **Division** of Community Correction's individual probation or parole areas for the current year and previous years, as available;

SECTION 962. Arkansas Code § 16–99–105(a)(2)(C), concerning reporting and data collection by the Department of Community Correction, is amended to read as follows:

<< AR ST § 16–99–105 >>

(C) The total number of new felony convictions and the rate of new felony convictions from each of the ~~Department~~ **Division** of Community Correction's individual probation or parole areas for the current year and previous years, as available;

SECTION 963. Arkansas Code § 16–99–105(a)(2)(E), concerning reporting and data collection by the Department of Community Correction, is amended to read as follows:

<< AR ST § 16–99–105 >>

(E) The evidence-based programs established or enhanced by the ~~Department~~ **Division** of Community Correction as part of its effort to reduce revocations and improve public safety and any subsequent evidence-based programs that contribute to the outcomes of the performance incentive funding program under this subchapter.

SECTION 964. Arkansas Code § 16–99–105(d)(2) and (3), concerning reporting and data collection by the Department of Community Correction, are amended to read as follows:

<< AR ST § 16–99–105 >>

(2) This analysis shall include without limitation the effect, compared to baseline, on net ~~Department~~ **Division** of Correction bed usage by the ~~Department~~ **Division** of Community Correction and by all county grantees, as well as ~~Department~~ **Division** of Correction admissions and lengths-of-stay, moneys paid out, revocation rates and new crime conviction rates for the ~~Department~~ **Division** of Community Correction, and guidelines compliance for participating counties.

(3) The board shall provide analyses on an area-by-area basis for the ~~Department~~ **Division** of Community Correction performance incentive funding program and on a county-by-county, multicounty-partnership, or judicial-district basis for the local performance-incentive funding program.

SECTION 965. Arkansas Code § 16–106–201(2), concerning the definition of “inmate” under the rules governing actions against the state, is amended to read as follows:

<< AR ST § 16–106–201 >>

(2) “Inmate” or “inmate in a penal institution” includes, but is not limited to, a person in the custody or under the supervision of the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, or the United States Bureau of Prisons; and

SECTION 966. Arkansas Code § 16–106–202(a), concerning premature, frivolous, or malicious lawsuits, is amended to read as follows:

<< AR ST § 16–106–202 >>

(a) A civil action or claim initiated against the state, the Board of Corrections, the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, another state agency, or a political subdivision, or an original action in an appellate court, or an appeal of an action, whether or not the plaintiff was represented in court, by an inmate in a penal institution or an incarcerated person appearing pro se may be:

- (1) Dismissed without prejudice by the court on its own motion or on a motion of the defendant, if all administrative remedies available to the inmate have not been exhausted; or
- (2) Dismissed with prejudice by the court on a motion of the defendant if the court is satisfied that the action is frivolous or malicious.

SECTION 967. Arkansas Code § 16–106–203(1), concerning sanctions for causes of actions that are frivolous or malicious, is amended to read as follows:

<< AR ST § 16–106–203 >>

- (1) Award attorney's fees and actual costs incurred by the state, the ~~Department~~ **Division** of Correction, or the ~~Department~~ **Division** of Community Correction, another state agency, a political subdivision, the Attorney General's office, or the defendant, not to exceed two thousand five hundred dollars (\$2,500) per frivolous cause of action;

SECTION 968. Arkansas Code § 16–106–203(3) and (4), concerning sanctions for causes of actions that are frivolous or malicious, are amended to read as follows:

<< AR ST § 16–106–203 >>

- (3) Order the ~~Department~~ **Division** of Correction to revoke up to thirty (30) days' earned good-time credits accrued, under § 12–29–201 et seq.;
- (4) Order the ~~Department~~ **Division** of Correction to revoke permission to have nonessential personal property of the inmate, including, but not limited to, televisions, radios, stereos, or tape recorders. If permission is revoked, the ~~Department~~ **Division** of Correction shall take appropriate precautions to protect the property during the period of the revocation; or

SECTION 969. Arkansas Code § 16–106–204(a), concerning fees and costs as a judgment against the inmate, is amended to read as follows:

<< AR ST § 16–106–204 >>

(a) Any award of attorney's fees or costs, or the imposition of a sanction shall serve as a judgment against the inmate, and the ~~Department~~ **Division** of Correction is authorized to take up to fifty percent (50%) of the inmate's account per month until paid.

SECTION 970. Arkansas Code § 16–123–407 is amended to read as follows:

<< AR ST § 16–123–407 >>

16–123–407. Exemptions.

The ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, a county jail, and a detention facility are exempt from this subchapter.

SECTION 971. Arkansas Code § 17–82–104(d)(1), concerning unlawful practice of dentistry is amended to read as follows:

<< AR ST § 17–82–104 >>

(d)(1) A registered licensed dental hygienist working at a ~~Department~~ **Division** of Correction or ~~Department~~ **Division** of Community Correction facility may work under the general supervision of a licensed dentist.

SECTION 972. Arkansas Code § 17–82–301(c), concerning penalty for practice of unlawful dentistry, is amended to read as follows:

<< AR ST § 17–82–301 >>

(c) Any person who violates any provision of subsection (a) of this section shall be guilty of a Class D felony and shall be subject to imprisonment not to exceed six (6) years in the ~~Department~~ **Division** of Correction or a fine of up to ten thousand dollars (\$10,000), or both. Each unauthorized act constitutes a separate offense.

SECTION 973. Arkansas Code § 17–101–308(a)(4)(A), concerning the denial, suspension or revocation of a certificate for veterinary technicians, is amended to read as follows:

<< AR ST § 17–101–308 >>

(4)(A) Any offense punishable by incarceration in the ~~Department~~ **Division** of Correction or federal prison.

SECTION 974. Arkansas Code § 19–4–803(a)(5), resulting from Initiated Act 1 of 2000 and concerning exemptions under the accounting and budgetary procedures regarding the expenditure of cash funds, is amended to read as follows:

<< AR ST § 19–4–803 >>

(5) The Benefit Fund of the ~~Department~~ **Division** of Workforce Services;

SECTION 975. Arkansas Code § 19–4–803(b), resulting from Initiated Act 1 of 2000 and concerning exemptions, is amended to read as follows:

<< AR ST § 19–4–803 >>

(b) The ~~Department~~ **Division** of Correction Plasma Center is exempt from provisions of this subchapter.

SECTION 976. Arkansas Code § 19–4–1602(a)(20), concerning payroll deductions, is amended to read as follows:

<< AR ST § 19–4–1602 >>

(20) ~~Department~~ **Division** Correction Bus Pool dues, when requested in writing by those employees;

SECTION 977. Arkansas Code § 19–5–302(1), concerning the State General Government Fund, is amended to read as follows:

<< AR ST § 19–5–302 >>

(1) ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account.

(A) The ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account shall be used for the maintenance, operation, and improvement of the ~~Department~~ **Division** of Correction required in carrying out those powers, functions, and duties relating to nonfarm or crop-producing programs as established by law.

(B) The ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account shall consist of:

- (i) Those general revenues as may be provided by law;
- (ii) Nonrevenue income derived from services provided by the inmate care and custody program;
- (iii) Excess farm profits as may be provided by law; and
- (iv) Any other funds provided by law, including federal reimbursements received for eligible expenditures by the various programs of the ~~Department~~ **Division** of Correction from appropriations made payable from the ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account;

SECTION 978. Arkansas Code § 19–5–302(2), concerning the State General Government Fund, is amended to read as follows:

<< AR ST § 19–5–302 >>

(2) ~~State Military Department~~ **Department of the Military** Fund Account.

(A) The ~~State Military Department~~ **Department of the Military** Fund Account shall be used for the maintenance, operation, and improvement of the ~~State Military Department~~ **Department of the Military** required in carrying out the powers, functions, and duties as set out in the Military Code of Arkansas, § 12–60–101 et seq., or other duties imposed by law upon the State Militia, ~~State Military Department~~ **Department of the Military**, and the Arkansas Wing of the Civil Air Patrol, which was separated from the Department of Public Safety [abolished] by Acts 1981, No. 45, §§ 4 and 5.

(B) The ~~State Military Department~~ **Department of the Military** Fund Account shall consist of:

- (i) Those general revenues as may be provided by law;
- (ii) Nonrevenue income derived from services provided by the ~~State Military Department~~ **Department of the Military**; and
- (iii) Any other funds as may be provided by law.

(C) Federal reimbursement funds received on account of eligible expenditures by the State Militia or the ~~State Military Department~~ **Department of the Military** shall be deposited into the Special Military Fund established

on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, there to be used as may be provided by law;

SECTION 979. Arkansas Code § 19-5-302(3), concerning the State General Government Fund and the Parks and Tourism Fund Account, is amended to read as follows:

<< AR ST § 19-5-302 >>

(3) Parks and Tourism Fund Account.

(A) The Parks and Tourism Fund Account shall be used for the maintenance, operation, and improvement required by the Department of Parks, **Heritage**, and Tourism as created by § ~~25-13-101~~ **25-43-1301**, or other duties imposed by law upon the ~~Department of Parks and Tourism~~ **State Parks Division and the Tourism Division**, the State Parks, Recreation, and Travel Commission, ~~the Prairie Grove Battlefield State Park Advisory Commission~~, or upon any state park of Arkansas.

(B) The Parks and Tourism Fund Account shall consist of:

(i) Those general revenues as may be provided by law;

(ii) Nonrevenue income derived from services provided by the various divisions of the ~~Department of Parks and Tourism~~ **State Parks Division and the Tourism Division**; and

(iii) Any other funds that may be provided by law.

(C) Funds received by the various state parks under the direction of the Department of Parks, **Heritage**, and Tourism which are not required to be deposited into the State Treasury shall be deposited into banks, there to be disbursed as may be appropriated by the General Assembly or to be used as may be otherwise provided by law;

SECTION 980. Arkansas Code § 19-5-302(4), concerning the Arkansas Department of Environmental Quality Fund Account of the State General Government Fund, is amended to read as follows:

<< AR ST § 19-5-302 >>

(4) ~~Arkansas Department~~ **Division** of Environmental Quality Fund Account.

(A) The ~~Arkansas Department~~ **Division** of Environmental Quality Fund Account shall be used for the maintenance, operation, and improvement required by the ~~Arkansas Department~~ **Division** of Environmental Quality in carrying out the powers, functions, and duties as set out in Title 8, Chapters 1-10, or other duties imposed by law upon the ~~Arkansas Pollution Control and Ecology Commission~~ which were transferred to the ~~Arkansas Department of Environmental Quality~~ under the provisions of § ~~25-14-101~~.

(B) The ~~Arkansas Department~~ **Division** of Environmental Quality Fund Account shall consist of:

(i) Those general revenues as may be provided by law;

(ii) Such funds received from the Arkansas State Game and Fish Commission and from the Oil and Gas Commission as may be provided by law;

(iii) Nonrevenue income derived from services provided by the ~~Arkansas Department~~ **Division** of Environmental Quality; and

(iv) Any other funds provided by law;

SECTION 981. Arkansas Code § 19–5–302(7), concerning the State General Government Fund, is amended to read as follows:

<< AR ST § 19–5–302 >>

(7) Department of Labor **and Licensing** Fund Account.

(A) The Department of Labor **and Licensing** Fund Account shall be used for the maintenance, operation, and improvement required by the Department of Labor **and Licensing** in carrying out those powers, functions, and duties imposed by law upon the ~~Director~~ **Secretary** of the Department of Labor **and Licensing** or the Department of Labor **and Licensing**, or upon the State Mine Inspector as set out in § 11–7–201 et seq., or any other duties that may be imposed by law upon the Department of Labor **and Licensing** which was transferred to the Department of Labor **and Licensing** by § 25–12–101.

(B) The Department of Labor **and Licensing** Fund Account shall consist of:

- (i) Those general revenues as may be provided by law; and
- (ii) Any other funds as may be provided by law, including federal reimbursement received on account of eligible expenditures by the various programs of the Department of Labor **and Licensing** operating from and having appropriations made payable from the Department of Labor **and Licensing** Fund Account;

SECTION 982. Arkansas Code § 19–5–302(10), concerning the State General Government Fund and the Department of Arkansas Heritage Fund Account, is amended to read as follows:

<< AR ST § 19–5–302 >>

(10) ~~Department~~ **Division** of Arkansas Heritage Fund Account. The ~~Department~~ **Division** of Arkansas Heritage Fund Account shall consist of those general revenues as provided by law for the ~~Department~~ **Division** of Arkansas Heritage and shall be used for the maintenance, operation, and improvement of the ~~Department~~ **Division** of Arkansas Heritage;

SECTION 983. Arkansas Code § 19–5–302(12), concerning the State General Government Fund, is amended to read as follows:

<< AR ST § 19–5–302 >>

(12) ~~Department~~ **Division** of Community Correction Fund Account.

(A) The ~~Department~~ **Division** of Community Correction Fund Account shall be used for the maintenance, operation, and improvement of the ~~Department~~ **Division** of Community Correction required in carrying out those powers, functions, and duties as established by law.

(B) The ~~Department~~ **Division** of Community Correction Fund Account shall consist of:

- (i) Those general revenues as may be provided by law;

(ii) Nonrevenue income derived from services provided by the probation, parole, and community correction program; and

(iii) Any other funds provided by law, including federal reimbursements received for eligible expenditures by the various programs of the ~~Department~~ **Division** of Correction from appropriations made payable from the ~~Department~~ **Division** of Community Correction Fund Account;

SECTION 984. Arkansas Code § 19–5–302(14), concerning the State General Government Fund, is amended to read as follows:

<< AR ST § 19–5–302 >>

(14) ~~Arkansas Agriculture Department~~ **Department of Agriculture** Fund Account.

(A) The ~~Arkansas Agriculture Department~~ **Department of Agriculture** Fund Account shall be used for the maintenance, operation, and improvement required by the ~~Arkansas Agriculture Department~~ **Department of Agriculture** in carrying out those powers, functions, and duties imposed by law upon the Secretary of the ~~Arkansas Agriculture Department~~ **Department of Agriculture** as set out in Title 25, Chapter 38, or any other duties that may be imposed by law upon the ~~Arkansas Agriculture Department~~ **Department of Agriculture** which were transferred to the ~~Arkansas Agriculture Department~~ **Department of Agriculture** under the provisions of §§ ~~25–38–204 and 25–38–206~~ **and 25–38–211**.

(B) The ~~Arkansas Agriculture Department~~ **Department of Agriculture** Fund Account shall consist of:

(i) Those general revenues as may be provided by law;

(ii) Nonrevenue income derived from services provided by the various divisions of the ~~Arkansas Agriculture Department~~ **Department of Agriculture**;

(iii) Federal reimbursement received on account of eligible expenditures by the various programs of the ~~Arkansas Agriculture Department~~ **Department of Agriculture** operating from and having appropriations made payable from the ~~Arkansas Agriculture Department~~ **Department of Agriculture** Fund Account; and

(iv) Any other funds as may be provided by law.

SECTION 985. Arkansas Code § 19–5–503 is amended to read as follows:

<< AR ST § 19–5–503 >>

19–5–503. Work release centers.

The Community Correction Revolving Fund is authorized to borrow from the Budget Stabilization Trust Fund for the establishment of new work release centers for the ~~Department~~ **Division** of Correction. These loans shall be repaid by the end of the fiscal year in which the loans are made.

SECTION 986. Arkansas Code § 19–5–905(a)(11)(A) and (B), concerning the Securities Reserve Fund, are amended to read as follows:

<< AR ST § 19–5–905 >>

(A) The ~~Department~~ **Division** of Correction Farm Fund under § 19–5–501(b)(1);

(B) The ~~State Military Department~~ **Department of the Military** Fund Account under § 19–5–501(b)(3);

SECTION 987. Arkansas Code § 19–5–1045(b) and (c), concerning the County Jail Reimbursement Fund, are amended to read as follows:

<< AR ST § 19–5–1045 >>

(b) The fund shall be used by the ~~Department~~ **Division** of Correction for reimbursing counties housing prisoners sentenced to the ~~Department~~ **Division** of Correction.

(c) The fund shall be used by the ~~Department~~ **Division** of Community Correction for reimbursing counties that are housing prisoners:

- (1) Sentenced to the ~~Department~~ **Division** of Community Correction;
- (2) Placed on probation if the probation is accompanied by incarceration in the ~~Department~~ **Division** of Community Correction; or
- (3) Confined in a county jail under any prerelease program or sanction imposed in response to a violation of a supervised condition.

SECTION 988. Arkansas Code § 19–6–301(31), concerning special revenues enumerated, is amended to read as follows:

<< AR ST § 19–6–301 >>

(31) Fees recovered from ex-offenders on probation or parole from a facility of the ~~Department~~ **Division** of Community Correction, as enacted by Acts 1981, No. 70, and all laws amendatory thereto, § 16–93–104;

SECTION 989. Arkansas Code § 19–6–301(42) and (43), concerning special revenues enumerated, are amended to read as follows:

<< AR ST § 19–6–301 >>

(42) That portion not declared to be “pledged revenues” for debt service on any certificates of indebtedness issued under Acts 1983, No. 458, §§ 22–3–1201 — 22–3–1214, 22–3–1215 [repealed], and 22–3–1216 — 22–3–1219, and that portion not declared cash funds paid to the Arkansas Development Finance Authority for deposit into the Correction Facilities Privatization Account of the Correction Facilities Construction Fund, § 22–3–1210(c)(1)(A), of the ~~Department~~ **Division** of Correction's income from its farm operations, including sale of farm products and livestock, rental of farm properties, and payments from agencies of the state or federal government in connection with the farm operations, as enacted by Acts 1968 (1st Ex. Sess.), No. 50, and all laws amendatory thereto, §§ 12–27–101 — 12–27–105, 12–27–107 — 12–27–109, 12–27–112, 12–27–113, 12–27–115, 12–27–118, 12–27–120, 12–28–102, 12–29–101, former 12–29–102, 12–29–103, 12–29–104, 12–29–107, 12–29–112, 12–29–401, 12–30–301, 12–30–306, 12–30–401, 12–30–403, 12–30–405 — 12–30–407, 12–30–408 [repealed], 16–93–101, 16–93–102, former 16–93–201, 16–93–202 — 16–93–204, 16–93–601, 16–93–610, 16–93–701, 16–93–705, and 25–8–106;

(43) That portion not declared to be “pledged revenues” for debt service on any certificates of indebtedness issued under Acts 1983, No. 458, §§ 22–3–1201 — 22–3–1214, 22–3–1215 [repealed], 22–3–1216 — 22–3–1219, of the ~~Department~~ **Division** of Correction's sales, or dispositions of articles and products manufactured or produced by prison labor, as enacted by Acts 1967, No. 473, known as the “Prison–Made Goods Act of 1967”, § 12–30–201 et seq.;

SECTION 990. Arkansas Code § 19–6–301(104), concerning special revenues enumerated, is amended to read as follows:

<< AR ST § 19–6–301 >>

(104) All ~~Arkansas Department~~ **Division** of Environmental Quality fees, unless otherwise provided by law, § 8–1–105, landfill operator license fees, § 8–6–909, and that portion of new tire waste tire fees, § 8–9–404;

SECTION 991. Arkansas Code § 19–6–403 is amended to read as follows:

<< AR ST § 19–6–403 >>

19–6–403. Department **Division of Correction Farm Fund.**

The ~~Department~~ **Division** of Correction Farm Fund shall consist of those revenues as specified in § 19–6–301(42), there to be used for the maintenance, operation, and improvement of the ~~Department~~ **Division** of Correction's² farming operations. Any surplus accruing in the fund shall, upon determination of that surplus, be transferred to the ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account.

SECTION 992. Arkansas Code § 19–6–423 is amended to read as follows:

<< AR ST § 19–6–423 >>

19–6–423. Department **Division of Correction Prison Industry Fund.**

The ~~Department~~ **Division** of Correction Prison Industry Fund shall consist of those special revenues as specified in § 19–6–301(43), there to be used for the maintenance, operation, and improvement of the ~~Department~~ **Division** of Correction's prison industries activities.

SECTION 993. Arkansas Code § 19–7–406 is amended to read as follows:

<< AR ST § 19–7–406 >>

19–7–406. Loans on agricultural products.

It shall be lawful for the ~~Department~~ **Division** of Correction and other state institutions and the counties of the state which produce cotton or other agricultural products to participate in government loans made available upon these agricultural products. The superintendent of any such state institution and the county judge of any such county are authorized to enter into the necessary papers to secure the benefits of these government loans.

SECTION 994. Arkansas Code § 19–10–216(c), concerning decisions of the Arkansas State Claims Commission, is amended to read as follows:

<< AR ST § 19–10–216 >>

(c) A claim filed by a person who at the time of filing is an inmate of the ~~Department~~ **Division** of Correction is exempted from the requirements of this section.

SECTION 995. Arkansas Code § 20–9–310(2), concerning liability for furnishing medical records pursuant to subpoena, is amended to read as follows:

<< AR ST § 20–9–310 >>

(2) Providing access to or producing a copy of the health or medical records requested by a clerk of a court, the ~~Department~~ **Division** of Correction, the ~~Department~~ **Division** of Community Correction, the Arkansas State Hospital, the Department of Health, the Department of Human Services, or a local law enforcement agency under the Sex Offender Registration Act of 1997, § 12–12–901 et seq.; or

SECTION 996. Arkansas Code § 20–9–602(12), concerning consent to medical treatment, is amended to read as follows:

<< AR ST § 20–9–602 >>

(12) Any minor incarcerated in the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction, for himself or herself; and

SECTION 997. Arkansas Code § 20–9–604(e)(1), concerning consent for medical procedure given by court in an emergency, is amended to read as follows:

<< AR ST § 20–9–604 >>

(e)(1) Consent may be given by a court when an emergency exists and there is no one immediately available who is authorized, empowered to, or capable of consent for a person of unsound mind or there has been a subsequent material and morbid change in the condition of the affected person who is in the custody of the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction.

SECTION 998. Arkansas Code § 21–5–701(3), concerning the definition of “covered public employee” under the laws addressing death benefits, is amended to read as follows:

<< AR ST § 21–5–701 >>

(3) “Covered public employee” means a police officer, firefighter, state highway employee, state correction employee, ~~Department~~ **Division** of Community Correction employee, jailer, qualified emergency services worker, wildlife enforcement officer, emergency medical technician, Arkansas Forestry Commission employee, commissioned law enforcement personnel, or emergency response personnel of the ~~State Parks Division of the~~ Department of Parks, **Heritage**, and Tourism;

SECTION 999. Arkansas Code § 21–5–701(4), concerning the definition of “Department of Community Correction employee” under the laws addressing death benefits, is amended to read as follows:

<< AR ST § 21–5–701 >>

(4) “~~Department~~ **Division** of Community Correction employee” means any employee of the ~~Department~~ **Division** of Community Correction who is subject to injury through contact with parolees, probationers, or center residents;

SECTION 1000. Arkansas Code § 21–5–701(10), concerning the definition of “state correction employee” under the laws addressing death benefits, is amended to read as follows:

<< AR ST § 21–5–701 >>

(10) “State correction employee” means an employee of the ~~Department~~ **Division** of Correction or the Corrections School System who is subject to injury through contact with inmates or parolees of the ~~Department~~ **Division** of Correction;

SECTION 1001. Arkansas Code § 21–5–704(b)(2)(A), concerning payment of claim to covered public employees, their designated beneficiaries, or their survivors, is amended to read as follows:

<< AR ST § 21–5–704 >>

(2)(A) Except as provided in subdivision (b)(2)(B) of this section, the funds shall not be reimbursed by transfer or charging the funds against any state funds allocated for turnback to cities or counties or distributed to the State Highway and Transportation Department Fund or distributed to any ~~Department~~ **Division** of Correction fund account or any other state department agency fund account other than the Arkansas State Claims Commission fund accounts and the Miscellaneous Revolving Fund or state funds levied for firefighters, police officers, employees of the Arkansas Department of Transportation, and employees of the ~~Department~~ **Division** of Correction for pension purposes.

SECTION 1002. Arkansas Code § 21–5–704(c), concerning payment of claim to covered public employees, their designated beneficiaries, or their survivors, is amended to read as follows:

<< AR ST § 21–5–704 >>

(c) It is the intent of this subchapter that twenty-five thousand dollars (\$25,000) of the total obligation of providing the benefits provided by this subchapter, even though the funds are to be administered by the Arkansas State Claims Commission, are to be defrayed from state funds and are not to be charged against, or recovered against, any turnback moneys due the cities or counties of this state or allocated to the state highway system of this state or to the ~~Department~~ **Division** of Correction or any other state department agency fund account other than the Arkansas State Claims Commission fund accounts and the Miscellaneous Revolving Fund.

SECTION 1003. The introductory language of Arkansas Code § 21–5–705(a)(1), concerning payment of claim to designated beneficiaries or survivors of certain specified public employees killed in the line of duty, is amended to read as follows:

<< AR ST § 21–5–705 >>

(1) Police officer, wildlife enforcement officer, commissioned law enforcement officer or emergency response employee of the ~~State Parks Division of the~~ Department of Parks, **Heritage**, and Tourism, ~~Department~~ **Division** of Community Correction employee, employee of the ~~Department~~ **Division** of Correction, jailer, or coroner whose death occurred:

SECTION 1004. Arkansas Code § 21–5–705(b), concerning payment of claims to designated beneficiaries or survivors of certain public employees killed in the line of duty, is amended to read as follows:

<< AR ST § 21–5–705 >>

(b) In addition to the benefits provided for in subsection (a) of this section, the state shall pay the additional sum of twenty-five thousand dollars (\$25,000) to the designated beneficiary, surviving spouse, or surviving children under twenty-two (22) years of age of any police officer, wildlife enforcement officer of the Arkansas State Game and Fish Commission, commissioned law enforcement officer of the ~~State Parks Division~~ of the Department of Parks, **Heritage**, and Tourism, ~~Department~~ **Division** of Community Correction employee, or employee of the ~~Department~~ **Division** of Correction:

(1) Who was wearing a bulletproof vest approved by the Director of the Department of Arkansas State Police **or the Director of the Division of Arkansas State Police**; and

(2) Whose death occurred:

(A) After July 1, 1989; and

(B) In the official line of duty as the result of a criminal action of another person or persons.

SECTION 1005. Arkansas Code § 22–3–1202 is amended to read as follows:

<< AR ST § 22–3–1202 >>

22–3–1202. Purpose.

It has been found by the General Assembly that adequate construction, equipping, maintenance, and operation of facilities for the ~~Department~~ **Division** of Correction and the state-supported institutions of higher education are essential to the well-being of this state and that the pledging of the motor vehicles safety inspection fee, the fees derived from the agriculture and livestock activities and rentals of farm properties, the fees collected from the sale or disposition of articles and products manufactured through the operations of the prison industries program, and the rental fees collected by state-supported institutions of higher education from tenants other than state agencies is essential to the fulfillment of the purposes of this subchapter.

SECTION 1006. Arkansas Code § 22–3–1203(2), concerning the definition of “building”, is amended to read as follows:

<< AR ST § 22–3–1203 >>

(2)(A) “Building” or “buildings” means any and all buildings and related facilities constructed or acquired and equipped for the housing of inmates committed to, or in the custody of, the ~~Department~~ **Division** of Correction; any and all buildings and related facilities constructed, acquired, or equipped for the purpose of expanding the prison agriculture and industry programs within the ~~Department~~ **Division** of Correction; and any and all buildings constructed, acquired, or equipped for any state-supported institution of higher education, the construction, acquisition, or equipping of which are authorized by this subchapter.

(B) The term “building” or “buildings” means a single building or complex of buildings or an expansion of an existing building or complex of buildings as may be determined best to serve the needs of the ~~Department~~ **Division** of Correction or state-supported institutions of higher education and shall refer to and include such related structures, fixtures, and facilities as may be determined to be appropriate;

SECTION 1007. Arkansas Code § 22–3–1203(4)(A), concerning the definition of “construct” or “construction” under the Public Facilities Finance Act of 1983, is amended to read as follows:

<< AR ST § 22–3–1203 >>

(4)(A) “Construct” or “construction” means to acquire, construct, reconstruct, remodel, expand, install, or equip all lands, buildings, structures, improvements, or other property, either real, personal, or mixed, which is useful in connection with the building, and to make other necessary expenditures in connection therewith by such methods and in such manner as the Building Authority Division of the ~~Department of Finance and Administration~~ shall determine to be necessary or desirable to accomplish the powers, purposes, and authorities set forth in this subchapter.

SECTION 1008. Arkansas Code § 22–3–1203(5), concerning the definition of “department”, is repealed.

<< AR ST § 22–3–1203 >>

(5) ~~“Department” means the Department of Correction created by § 12–27–103 and any successor agency;~~

SECTION 1009. Arkansas Code § 22–3–1205(a), concerning the powers of the Building Authority Division, is amended to read as follows:

<< AR ST § 22–3–1205 >>

(a) In addition to the powers, purposes, and authorities set forth elsewhere in this subchapter or in other laws, the Building Authority Division of the ~~Department of Finance and Administration~~ is authorized and empowered to:

(1) Acquire, construct, repair, renovate, alter, maintain, and equip existing or new buildings and capital improvements and the sites upon which they are situated for use by the ~~Department~~ **Division** of Correction for the housing, treatment, care, and rehabilitation of inmates committed to or in the custody of the ~~Department~~ **Division** of Correction;

(2) Acquire, construct, repair, renovate, alter, maintain, and equip existing or new buildings and capital improvements and the sites upon which they are situated for use by the ~~Department~~ **Division** of Correction for the prison agriculture and industry programs;

SECTION 1010. Arkansas Code § 22–3–1210(a)(2) and (3), concerning certificates of indebtedness and the Public Facilities Debt Service Fund, are amended to read as follows:

<< AR ST § 22–3–1210 >>

(2) All moneys from the sale of or disposition of farm products, livestock, or other products produced in connection with the agriculture and livestock activities at any institution under the control of the Board of Corrections or any successor entity, excluding those moneys that may be accountable from, or the value of, products consumed within the ~~Department~~ **Division** of Correction and from rental of farm properties under the control of the board or any successor entity;

(3) All moneys from the sale or disposition of articles and products manufactured or produced by prison labor through the operations of the prison industry program, excluding those moneys that may be accountable from, or the value of, articles and products used or consumed within the ~~Department~~ **Division** of Correction; and

SECTION 1011. Arkansas Code § 22–3–1210(c), concerning certificates of indebtedness and the Public Facilities Debt Service Fund, is amended to read as follows:

<< AR ST § 22–3–1210 >>

(c)(1)(A) Moneys described in subdivision (a)(2) of this section are declared to be cash funds restricted in their use and dedicated and are to be used solely as authorized in § 15–5–213. The cash funds when received by the ~~Department~~ **Division** of Correction shall not be deposited into or deemed to be a part of the State Treasury for purposes of Arkansas Constitution, Article 5, § 29, Arkansas Constitution, Article 16, § 12, Arkansas Constitution, Amendment 20, or any other constitutional or statutory provision related thereto. The ~~Department~~ **Division** of Correction shall pay such cash funds to the Arkansas Development Finance Authority for deposit into the Correction Facilities Privatization Account of the Correction Facilities Construction Fund for the purposes authorized by § 15–5–213. The cash funds described in this subsection shall not be subject to appropriation to the extent required for debt service.

(B) Commencing on the first day of the month next succeeding the issuance of certificates of indebtedness under this subchapter, but not before July 1, 1983, and so long as any certificates are outstanding under this subchapter, the pledged revenues, except as provided herein, shall be deposited into the State Treasury as and when received by the ~~Department~~ **Division** of Correction, by the Building Authority ~~Division of the Department of Finance and Administration~~, by state-supported institutions of higher education, or by any other state agency, as the case may be, to the credit of a fund to be designated the “Public Facilities Debt Service Fund”.

(2) So long as any certificates of indebtedness are outstanding under this subchapter, all moneys in the Public Facilities Debt Service Fund shall be used solely for payment and redemption of the outstanding 1977 Bonds and the 1979 Bonds, as authorized in this subchapter, for the payment of the principal of and interest on the certificates of indebtedness as authorized in this subchapter, for transfer of such amounts designated in subsection (a) of this section from time to time, as deemed necessary by the Chief Fiscal Officer of the State, to the Correction Facilities Privatization Account of the Correction Facilities Construction Fund established in § 15–5–213, and for the transfer of surplus moneys as defined in the authorizing resolution in the State Treasury for credit to the designated ~~Department~~ **Division** of Correction funds, in accordance with the provisions of this subchapter.

SECTION 1012. Arkansas Code § 22–3–1210(f), concerning certificates of indebtedness and the Public Facilities Debt Service Fund, is amended to read as follows:

<< AR ST § 22–3–1210 >>

(f) Nothing in this section is intended to prohibit the ~~division~~ **Building Authority Division** from investing moneys received under this section, as provided in this subchapter.

SECTION 1013. Arkansas Code § 22–3–1217 is amended to read as follows:

<< AR ST § 22–3–1217 >>

22–3–1217. Disposition of revenues from agricultural and livestock activities of correctional facility.

(a)(1) Prior to the issuance of certificates of indebtedness as authorized by this subchapter, all moneys collected by the ~~Department~~ **Division** of Correction from the sale or disposition of farm products, livestock, or other products produced in connection with agricultural and livestock activities at institutions under the control of the Board of Corrections, from the rental of farm properties under the control of the board, and from payments from agencies of the state or federal government in connection with the farm operations of the ~~department~~ **division** shall be deposited into the State Treasury

as special revenues for credit to the ~~Department~~ **Division** of Correction Farm Fund, as authorized by law, to be used for the maintenance, operation, and improvement of the agriculture and farm programs of the ~~department~~ **division**.

(2) Moneys which the ~~department~~ **division** shall determine not to be necessary in defraying expenses of operating the agriculture programs of the ~~department~~ **division** and which are profit or surplus from the operation of the agriculture programs shall, upon certification by the board to the Chief Fiscal Officer of the State, be transferred by the Chief Fiscal Officer of the State from the ~~Department~~ **Division** of Correction Farm Fund to the ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account within the State General Government Fund, to be used to supplement general revenues provided for the maintenance, operation, and improvement of the ~~department~~ **division**, as provided by law.

(b)(1) Commencing the first day of the month next succeeding the issuance of any certificates of indebtedness as authorized by this subchapter, the moneys described in this section shall be pledged revenues, as stated in § 22–3–1210, and shall be deposited into the Public Facilities Debt Service Fund as established in § 22–3–1210.

(2) Any surplus prison farm moneys in the Public Facilities Debt Service Fund, as defined in the authorizing resolution, shall be transferred to the ~~Department~~ **Division** of Correction Farm Fund, upon certification by the Building Authority Division of the Department of Finance and Administration to the Chief Fiscal Officer of the State, to the Treasurer of State, and to the Auditor of State, to be used for the maintenance, operation, and improvement of the agriculture and farm programs of the ~~Department~~ **Division** of Correction, as provided by law.

(3) Such moneys deposited into the ~~Department~~ **Division** of Correction Farm Fund which the ~~department~~ **division** shall determine not to be necessary in defraying expenses of operating the agriculture and farm programs of the ~~department~~ **division** shall be, upon certification thereof by the board to the Chief Fiscal Officer of the State, transferred by the Chief Fiscal Officer of the State from the ~~Department~~ **Division** of Correction Farm Fund to the ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account within the State General Government Fund to be used to supplement general revenues provided for the maintenance, operation, and improvement of the ~~department~~ **division**, as provided by law.

SECTION 1014. Arkansas Code § 22–3–1218 is amended to read as follows:

<< AR ST § 22–3–1218 >>

22–3–1218. Disposition of revenues from prison labor.

(a)(1) Prior to the issuance of certificates of indebtedness as authorized by this subchapter, all moneys collected by the Board of Corrections from the sale or disposition of articles and products manufactured or produced by prison labor shall be forthwith deposited with the Treasurer of State, to be there kept and maintained as a special revolving account designated as the “~~Department~~ **Division** of Correction Prison Industries Fund” as authorized by law. The moneys so collected and deposited shall be used solely for the purchase of manufacturing supplies, equipment, machinery, and buildings used to carry out the purposes of the industries program within the ~~Department~~ **Division** of Correction as well as for the payment of the necessary personnel in charge thereof and to otherwise defray the necessary expenses incident thereto, all of which shall be under the direction and subject to the approval of the board.

(2) The ~~Department~~ **Division** of Correction Prison Industries Fund shall never be maintained in excess of the amount necessary to efficiently and properly carry out the intentions of this subchapter.

(3) When, in the opinion of the board, the ~~Department~~ **Division** of Correction Prison Industries Fund has reached a sum in excess of the requirements of this subchapter, the excess shall be transferred, upon certification to the Chief Fiscal Officer of the State by the board, to the ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account.

(b)(1) Commencing on the first day of the month next succeeding the issuance of any certificates of indebtedness as authorized by this subchapter, the moneys described in this section shall be pledged revenues, as stated in § 22–3–1210, and shall be deposited into the Public Facilities Debt Service Fund as established in § 22–3–1210.

(2) Any surplus prison industries moneys in the Public Facilities Debt Service Fund, as defined in the authorizing resolution, shall be transferred into the ~~Department~~ **Division** of Correction Prison Industries Fund upon certification by the Building Authority Division of the Department of Finance and Administration to the Chief Fiscal Officer of the State, to the Treasurer of State, and to the Auditor of State. The moneys are to be used for the maintenance, operation, and improvement of the prison industries programs of the ~~Department~~ **Division** of Correction, as provided by law.

(3) Such moneys deposited into the ~~Department~~ **Division** of Correction Prison Industries Fund as the ~~Department~~ **Division** of Correction shall determine not to be necessary in defraying the expenses of operating the industries programs of the ~~department~~ **Division of Correction**, upon certification thereof by the board to the Chief Fiscal Officer of the State, shall be transferred by the Chief Fiscal Officer of the State from the ~~Department~~ **Division** of Correction Prison Industries Fund to the ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account within the State General Government Fund to be used to supplement general revenues provided for the maintenance, operation, and improvement of the ~~Department~~ **Division** of Correction, as provided by law.

SECTION 1015. Arkansas Code § 22–3–1225(c)(1) and (2), concerning the Prison Construction Fund, are amended to read as follows:

<< AR ST § 22–3–1225 >>

- (1) Correction or prison facilities to be used by the ~~Department~~ **Division** of Correction;
- (2) Regional jail facilities operated by the ~~Department~~ **Division** of Correction; or

SECTION 1016. Arkansas Code § 22–3–1225(e), concerning the Prison Construction Fund, is amended to read as follows:

<< AR ST § 22–3–1225 >>

(e) The Arkansas Development Finance Authority shall not fund or provide for the funding of any facility described in subsection (c) of this section to be operated or utilized by the ~~Department~~ **Division** of Correction unless the project, the plans therefor, and the construction thereof have been reviewed and approved by the Building Authority Division of the ~~Department of Finance and Administration~~. The Arkansas Development Finance Authority shall not fund or provide for the funding of any other regional jail facility not utilized by the ~~Department~~ **Division** of Correction unless the project is in compliance with the minimum standards for jail facilities adopted by the state.

SECTION 1017. Arkansas Code § 23–61–903(9)(A)(viii), concerning the definition of “submitting entity”, is amended to read as follows:

<< AR ST § 23–61–903 >>

- (viii) An entity that contracts with institutions of the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction to provide medical, dental, or pharmaceutical care to inmates.

SECTION 1018. Arkansas Code § 23–115–402(f)(1) and (2), concerning the restriction on the sale of lottery tickets, are amended to read as follows:

<< AR ST § 23–115–402 >>

- (1) The ~~Department~~ **Division** of Correction;
- (2) The ~~Department~~ **Division** of Community Correction; or

SECTION 1019. Arkansas Code § 24–4–726(b), concerning state penitentiary employees retirement, is amended to read as follows:

<< AR ST § 24–4–726 >>

(b) Upon certification from the Executive Director of the Arkansas Public Employees' Retirement System, the Treasurer of State shall transfer from the Department of Correction Inmate Care and Custody Fund Account of the State General Government Fund **or the Division of Correction Inmate Care and Custody Fund Account of the State General Government Fund** to the Arkansas Public Employees' Retirement System Fund an amount equal to the contributions made by the state penitentiary employees. That amount shall be credited to the Employer Contribution Fund of the system.

SECTION 1020. Arkansas Code § 24–4–726(f), concerning state penitentiary employees retirement, is amended to read as follows:

<< AR ST § 24–4–726 >>

(f) On January 1 of each year, the Executive Director of the Arkansas Public Employees' Retirement System shall determine the amount necessary for the purpose of providing funds to assure the payment of such benefits. The Treasurer of State shall transfer from the ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account of the State General Government Fund to the Arkansas Public Employees' Retirement System Fund that amount, as certified by the executive director.

SECTION 1021. Arkansas Code § 25–5–101 is repealed.

<< Repealed: AR ST § 25–5–101 >>

~~25–5–101. Continuation — Organization.~~

- ~~(a) The Department of Correction, established by § 12–27–101 et seq., is continued.~~
- ~~(b) The department shall consist of those divisions which existed on July 1, 1971, and any other divisions which may be created by law and placed under the department.~~

SECTION 1022. Arkansas Code § 25–15–211(d), concerning licenses for administrative adjudication, is amended to read as follows:

<< AR ST § 25–15–211 >>

(d)(1) A complaint filed by an offender with a state licensing board or state licensing agency against a licensee of the board or agency shall not be heard by the board or agency unless the complaint is accompanied by appropriately verified documentation showing that the offender has exhausted all administrative remedies under the Department **Division** of Correction grievance procedure.

(2) For purposes of this section, “offender” means any person sentenced to the Department **Division** of Correction or sentenced to the Department **Division** of Correction for judicial transfer to the Department **Division** of Community Correction or any person confined in a community correction center as a condition of probation, suspended imposition of sentence, or post prison transfer.

SECTION 1023. Arkansas Code § 25–15–212(a), concerning judicial review of administrative adjudication, is amended to read as follows:

<< AR ST § 25–15–212 >>

(a) In cases of adjudication, any person, except an inmate under sentence to the custody of the Department **Division** of Correction, who considers himself or herself injured in his or her person, business, or property by final agency action shall be entitled to judicial review of the action under this subchapter. Nothing in this section shall be construed to limit other means of review provided by law.

SECTION 1024. Arkansas Code § 25–16–614(d), concerning the examination of office, is amended to read as follows:

<< AR ST § 25–16–614 >>

(d) On the refusal of the Treasurer of State to comply with the provisions of this section, his or her office shall be declared vacant and the offense deemed a felony, and on conviction thereof he or she shall be sentenced to the Department **Division** of Correction for a term not exceeding five (5) years.

SECTION 1025. Arkansas Code § 25–35–104(a)(2) and (3), concerning participation in the Arkansas Multi–Agency Insurance Trust Fund, are amended to read as follows:

<< AR ST § 25–35–104 >>

(2) The Department **Division** of Correction;

(3) The Department **Division** of Community Correction; and

SECTION 1026. Arkansas Code § 27–14–2212(b), concerning the mutilation of serial numbers, is amended to read as follows:

<< AR ST § 27–14–2212 >>

(b) Any person convicted of violating subsection (a) of this section shall be deemed guilty of a felony and punished by imprisonment in the Department **Division** of Correction for not less than one (1) year nor more than five (5) years.

SECTION 1027. Arkansas Code § 27–65–132(c), concerning contracts between the State Highway Commission and employees, is amended to read as follows:

<< AR ST § 27-65-132 >>

(c) Willful violation of this section shall be deemed a felony punishable by imprisonment in the ~~Department~~ **Division** of Correction for not less than one (1) year.

SECTION 1028. Arkansas Code § 27-66-601(a) and (b), concerning state inmates working on roads, are amended to read as follows:

<< AR ST § 27-66-601 >>

(a) The State Highway Commission shall employ and work as many of the state inmates on the public roads as may not be otherwise employed by the ~~Department~~ **Division** of Correction.

(b) State inmates working on roads shall be under the care and custody of wardens or other officers named by the ~~Department~~ **Division** of Correction, with the approval of the Governor.

SECTION 1029. Arkansas Code § 27-66-601(e), concerning state inmates working on roads, is amended to read as follows:

<< AR ST § 27-66-601 >>

(e) The ~~Department~~ **Division** of Correction is to receive no profits for working the inmates on state roads.

SECTION 1030. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 5 — Department of Education

<< AR ST § 25-43-501 >>

25-43-501. Department of Education.

There is created the Department of Education as a cabinet-level department.

<< AR ST § 25-43-502 >>

25-43-502. State entities transferred to Department of Education.

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

- (1) The Arkansas Better Chance Program, created under § 6-45-105;**
- (2) The Arkansas Higher Education Coordinating Board, created under § 6-61-201;**
- (3) The Arkansas School for the Blind, described in § 6-43-201 et. seq.;**
- (4) The Arkansas School for the Deaf, created under § 6-43-301;**
- (5) The Arkansas State Library, created under § 13-2-203;**
- (6) The Board of Trustees for the Arkansas School for the Blind and Arkansas School for the Deaf, created under § 6-43-101;**

(7) The Department of Career Education, created under § 25–30–106, now to be known as the Division of Career and Technical Education;

(8) The Department of Education, created under § 25–6–102, now to be known as the Division of Elementary and Secondary Education;

(9) The Department of Higher Education, created under § 25–7–101, now to be known as the Division of Higher Education;

(10) The Division of Public School Academic Facilities and Transportation, created under § 6–21–112;

(11) The Division of Public School Accountability, created under § 6–15–102;

(12) The Martin Luther King, Jr. Commission, created under § 25–24–101;

(13) The State Board of Education, created under § 6–11–101;

(14) The State Library Board, created under § 13–2–205;

(15) The Americorps Office, created under § 25–43–504.

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

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

<< AR ST § 25–43–503 >>

25–43–503. Secretary of the Department of Education.

(a) The executive head of the Department of Education shall be the Secretary of the Department of Education.

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

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

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

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

(1) Hire department personnel;

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

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

<< AR ST § 25-43-504 >>

25-43-504. AmeriCorps Office.

(a) There is created within the Division of Higher Education of the Department of Education an AmeriCorps Office.

(b) The AmeriCorps Office shall perform those duties as delegated by the Secretary of the Department of Education.

<< AR ST § 25-43-505 >>

25-43-505. Northwest Technical Institute.

(a) The Northwest Technical Institute shall be a part of the Division of Higher Education.

(b) The Northwest Technical Institute is an educational facility and shall perform those duties as delegated by the Secretary of the Department of Education.

SECTION 1031. Arkansas Code § 1-4-114(b)(1)(A), concerning the Poet Laureate of the State of Arkansas, is amended to read as follows:

<< AR ST § 1-4-114 >>

(A) Two (2) principal heads of English departments of state-supported universities or colleges who are selected by the Director of the ~~Department~~ **Division** of Higher Education; and

SECTION 1032. Arkansas Code § 2-36-101(a), concerning the grading of fairs, is amended to read as follows:

<< AR ST § 2-36-101 >>

(a) The Arkansas Livestock and Poultry Commission may formulate necessary and appropriate rules and regulations for the grading of fairs on a point system in cooperation with an ad hoc advisory committee formed of representatives of agriculture consisting of representatives from the United States Department of Agriculture, the University of Arkansas Cooperative Extension Service, the Office of Agricultural Science and Technology of the ~~Department~~ **Division** of Career **and Technical** Education, and the Arkansas Fair Managers Association, which shall make recommendations as to criteria for the allotment of grade points to the commission.

SECTION 1033. Arkansas Code § 5-4-903(b)(1), concerning authorization for establishment of pre-adjudication probation programs, is amended to read as follows:

<< AR ST § 5-4-903 >>

(b)(1) A pre-adjudication probation program may incorporate services from various state agencies and educational institutions, including without limitation the ~~Department~~ **Division** of Community Correction, the Department of Human Services, the Adult Education Section of the ~~Department of Career Education~~ **of the Division of Workforce Services**, vocational schools, technical schools, community colleges, and two-year and four-year public universities.

SECTION 1034. Arkansas Code § 5-4-913 is amended to read as follows:

<< AR ST § 5-4-913 >>

5-4-913. Education screening.

A person eligible to enter a pre-adjudication program under this subchapter shall have his or her education level assessed by the court by completing a reading, literacy, and math assessment by the Department of Career Education **Adult Education Section**.

SECTION 1035. Arkansas Code § 6-1-105, is amended to read as follows:

<< AR ST § 6-1-105 >>

6-1-105. Information sharing with the Assessment Coordination Department Division.

(a)(1) The State Board of Education, the Department of Education **Division of Elementary and Secondary Education**, and any other Department **department** or division administered by the state board shall provide information maintained by the state board, the Department of Education **Division of Elementary and Secondary Education**, or any other Department or division to the Assessment Coordination Department **Division** upon request by the Assessment Coordination Department **Division**.

(2) The information shall enable the Assessment Coordination Department **Division** to:

(A) Verify, ascertain, or calculate assessed values of real and personal property, millage rates, or tax collection rates in school districts and counties; and

(B) Assist the General Assembly, the Attorney General, or another state agency in verifying, ascertaining, or calculating data related to public schools, including school funding, school district revenues, and public school facilities.

(b) Information provided under this section shall be in any medium in which the record is readily available or in any format to which it is readily convertible with the existing software used by the state board, the Department of Education **Division of Elementary and Secondary Education**, or any other department or division.

(c) Actual costs or expenses incurred in compiling or transmitting the data to the Assessment Coordination Department **Division** shall be paid by the Department of Education **Division of Elementary and Secondary Education**.

SECTION 1036. Arkansas Code § 6-1-403 is amended to read as follows:

<< AR ST § 6-1-403 >>

6-1-403. Purpose.

The purpose of the School Leadership Coordinating Council is to:

(1) Serve as a central body to coordinate the leadership development system efforts across the state including:

(A) Encouraging school districts to work with the Department of Education **Division of Elementary and Secondary Education**, the Department **Division** of Higher Education, the Department **Division** of Career and **Technical** Education, the Arkansas Leadership Academy School Support Program, and other leadership groups;

(B) Recommending a state leadership development system to coordinate all aspects of leadership development based on educational leadership standards adopted by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; and

(C) Devising a system of gathering data that includes input from practitioners, educational and community leaders, university leadership and faculty, and other interested parties;

(2) Assist the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the ~~Department~~ **Division** of Higher Education, the ~~Department~~ **Division** of Career **and Technical** Education, the ~~Arkansas Leadership Academy School Support Program~~, school districts, and other leadership groups in enhancing school leadership and school support efforts; and

(3) Aid in the development of model evaluation tools for use in the evaluation of school administrators.

SECTION 1037. Arkansas Code § 6–1–404(a)(2), concerning the creation of the School Leadership Coordinating Council, is amended to read as follows:

<< AR ST § 6–1–404 >>

(2) The Commissioner of **Elementary and Secondary** Education;

SECTION 1038. Arkansas Code § 6–1–404(a)(4) and (5), concerning the creation of the School Leadership Coordinating Council, is amended to read as follows:

<< AR ST § 6–1–404 >>

(4) The Director of the ~~Department~~ **Division** of Higher Education;

(5) The Director of the ~~Department~~ **Division** of Career **and Technical** Education;

SECTION 1039. Arkansas Code § 6–1–404(e), concerning the creation of the School Leadership Coordinating Council, is amended to read as follows:

<< AR ST § 6–1–404 >>

(e) The ~~Department of Education~~ **Division of Elementary and Secondary Education**, with the assistance of the ~~Department~~ **Division** of Higher Education and the ~~Department~~ **Division** of Career **and Technical** Education, shall staff the council.

SECTION 1040. Arkansas Code § 6–1–404(f)(1), concerning the creation of the School Leadership Coordinating Council, is amended to read as follows:

<< AR ST § 6–1–404 >>

(f)(1) All nonlegislative members of the council may receive expense reimbursement in accordance with § 25–16–902 paid by the ~~Department of Education~~ **Division of Elementary and Secondary Education** if funds are available.

SECTION 1041. Arkansas Code § 6–1–603(a), concerning the administration of the College and Career Coaches Program, is amended to read as follows:

<< AR ST § 6–1–603 >>

(a) The ~~Department~~ **Division** of Career **and Technical** Education, in partnership with the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the ~~Department~~ **Division** of Higher Education, shall develop and administer the College and Career Coaches Program.

SECTION 1042. The introductory language of Arkansas Code § 6–1–603(b), concerning the administration of the College and Career Coaches Program, is amended to read as follows:

<< AR ST § 6–1–603 >>

(b) The ~~Department~~ **Division** of Career **and Technical** Education shall manage the College and Career Coaches Program and:

SECTION 1043. Arkansas Code § 6–1–604(c)(1)(B), concerning the duties and supervision of the Colleges and Career Coaches Program, is amended to read as follows:

<< AR ST § 6–1–604 >>

(B) Be a liaison between the institution of higher education, education service cooperative, or nonprofit organization and the ~~Department~~ **Division** of Career **and Technical** Education.

SECTION 1044. Arkansas Code § 6–1–604(c)(2), concerning the duties and supervision of the Colleges and Career Coaches Program, is amended to read as follows:

<< AR ST § 6–1–604 >>

(2) The ~~department~~ **Division of Career and Technical Education** and the on-site supervisor shall evaluate the performance of each college and career coach.

SECTION 1045. Arkansas Code § 6–1–605(a)(2), concerning the program effectiveness and measurement of the College and Career Coaches Program, is amended to read as follows:

<< AR ST § 6–1–605 >>

(2)(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education** and the ~~Department~~ **Division** of Higher Education shall collect and prepare performance data reports to determine the effectiveness of the program.

(B) The data shall be collected for each county and school district served by the program and shall be shared with the ~~Department~~ **Division** of Career **and Technical** Education on January 1 and August 1 each year.

SECTION 1046. Arkansas Code § 6–1–605(b), concerning the program effectiveness and measurement of the College and Career Coaches Program, is amended to read as follows:

<< AR ST § 6-1-605 >>

(b) Annually, each college and career coach shall submit a report to the ~~Department~~ **Division** of Career **and Technical** Education describing his or her student contacts and the programs and services provided.

SECTION 1047. Arkansas Code § 6-3-111 is amended to read as follows:

<< AR ST § 6-3-111 >>

6-3-111. Budget requests.

The Director of the Educational Television Division of the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall submit budget requests of the ~~division~~ **Educational Television Division** to the State Board of Education and the Commissioner of **Elementary and Secondary** Education for their review and approval before the budget submissions are forwarded to the Governor and the Legislative Council.

SECTION 1048. Arkansas Code § 6-4-104(b), concerning the designation of the Arkansas Higher Education Coordinating Board as the agent for out-of-state education, is amended to read as follows:

<< AR ST § 6-4-104 >>

(b) The ~~Department~~ **Division** of Higher Education is hereby authorized to administer the program.

SECTION 1049. Arkansas Code § 6-4-106 is amended to read as follows:

<< AR ST § 6-4-106 >>

6-4-106. Application by students.

(a) Students seeking the subsidy to be paid for their benefit shall apply to the ~~Department~~ **Division** of Higher Education, giving necessary information.

(b) If the applicant is found to be a bona fide resident of Arkansas and if funds for this purpose are available, the ~~department~~ **division** shall, without more, certify the applicant as qualified to participate under this program.

SECTION 1050. Arkansas Code § 6-5-307(b), concerning classroom teacher salary requirements, is amended to read as follows:

<< AR ST § 6-5-307 >>

(b) Educational Excellence Trust Fund funds allocated for teacher salaries shall be disbursed by the ~~Department of Education~~ **Division of Elementary and Secondary Education** to school districts pursuant to the state foundation funding formula under § 6-20-2305.

SECTION 1051. Arkansas Code § 6-5-403(d), concerning the scope of the Arkansas Higher Education Coordinating Board, is amended to read as follows:

<< AR ST § 6-5-403 >>

(d)(1) The board, working in conjunction with state-supported institutions of higher education, private institutions of higher education that wish to participate, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and the ~~Department~~ **Division** of Career **and Technical** Education annually shall compile information for Arkansas high school students on:

- (A) Academic scholarships for freshmen entering institutions of higher education in the state; and
- (B) State-funded programs that provide opportunities for developing technical job skills and apprenticeships.

(2)(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide the information annually to all public high school counselors in the state.

(B) Each public high school counselor annually shall provide the information received from the ~~Department of Education~~ **Division of Elementary and Secondary Education** to students in the public high school where he or she is employed.

SECTION 1052. The introductory language of Arkansas Code § 6-5-404(a), concerning cooperation with the Arkansas Higher Education Coordinating Board by the State Board of Education, the Department of Education, and the public schools of Arkansas, is amended to read as follows:

<< AR ST § 6-5-404 >>

(a) The State Board of Education, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and the public schools of Arkansas shall:

SECTION 1053. Arkansas Code § 6-5-404(a)(1), concerning cooperation with the Arkansas Higher Education Coordinating Board by the State Board of Education, the Department of Education, and the public schools of Arkansas, is amended to read as follows:

<< AR ST § 6-5-404 >>

(1) Cooperate with the Arkansas Higher Education Coordinating Board, the ~~Department~~ **Division** of Higher Education, and the institutions of higher education in providing the information; and

SECTION 1054. Arkansas Code § 6-5-803(a), concerning the creation of the Arkansas Academic Physician Program, is amended to read as follows:

<< AR ST § 6-5-803 >>

(a) There is created within the ~~Department~~ **Division** of Higher Education the Arkansas Academic Physician Program.

SECTION 1055. Arkansas Code § 6-5-804(a), concerning the Health Care Student Summer Enrichment Program for Underrepresented Student Populations, is amended to read as follows:

<< AR ST § 6-5-804 >>

(a) There is created within the ~~Department~~ **Division** of Higher Education the Health Care Student Summer Enrichment Program for Underrepresented Student Populations.

SECTION 1056. Arkansas Code § 6–5–902(3), concerning the definition of “program” under the Positive Youth Development Grant Program, is amended to read as follows:

<< AR ST § 6–5–902 >>

(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 1057. Arkansas Code § 6–5–903(a), concerning the establishment and participation of the Positive Youth Development Grant Program, is amended to read as follows:

<< AR ST § 6–5–903 >>

(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 1058. 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:

<< AR ST § 6–5–904 >>

(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 (20:80), unless the applicant is granted a waiver by the ~~division~~ **Division of Child Care and Early Childhood Education**.

(B) The ~~division~~ **Division of Child Care and Early Childhood Education** may waive the required matching funds if:

(i) The applicant operates or will operate the program within the geographic boundaries of a public school district that contains at least one (1) school identified as targeted or comprehensive by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; and

(ii) The ~~division~~ **Division of Child Care and Early Childhood Education** determines that the applicant is unable to provide the matching funds, after exhausting all potential funding sources.

(C) The matching funds may consist of cash or appropriate in-kind services.

(c) Preference shall be given to applications that:

- (1) Are developed collaboratively by public and nonpublic schools and private community based programs;
- (2) Contain accountability systems and measurable outcomes under guidelines developed by the ~~Department~~ **Division of Elementary and Secondary Education** in consultation with the ~~division~~ **Division of Child Care and Early Childhood Education**;
- (3) Detail funds received from all public sources for existing programs, the types of existing programs, and the types of students served by existing programs; and
- (4) Increase comprehensive positive youth development programs during the school year and summer.
- (d)(1) If the number of qualified applicants exceed the amount of available funding, the ~~Department~~ **Division of Elementary and Secondary Education**, after consultation with the Arkansas Early Childhood Commission, shall determine funding distribution.
- (2) If there is a funding shortage, priority consideration shall be given to programs in communities where:
- (A) A public school district has fifty percent (50%) or more students eligible for free and reduced lunches; and
- (B) A public school district has been identified to receive Level 5 — Intensive support from the ~~department~~ **Division of Elementary and Secondary Education**.
- (e)(1) Grants shall be three-year awards to be distributed annually, as determined by the ~~division~~ **Division of Child Care and Early Childhood Education**.
- (2) Grants may be renewable for positive youth development programs that meet adequate performance levels as developed by the ~~department~~ **Division of Elementary and Secondary Education**.
- (3) Grants are subject to the availability of funds each fiscal year.

SECTION 1059. Arkansas Code § 6–5–904(f)(4)(A), concerning the application process and allocation of funding for a licensed youth development program, is amended to read as follows:

<< AR ST § 6–5–904 >>

- (A) Academic supports and skill-building activities that link program content to the frameworks promulgated by the ~~department~~ **Division of Elementary and Secondary Education**;

SECTION 1060. Arkansas Code § 6–5–905(b)–(d), concerning the criteria for need-based funding to attend a positive youth development program, are amended to read as follows:

<< AR ST § 6–5–905 >>

- (b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Division of Child Care and Early Childhood Education may develop a fee schedule and establish eligibility based on family income for children and youth five through nineteen (5–19) years of age who are not eligible under subsection (a) of this section.

(c) The department **Division of Elementary and Secondary Education** and the division **Division of Child Care and Early Childhood Education** shall review criteria for identifying and targeting the areas of the state with the greatest need for programs.

(d) The State Board of Education, with the advice and assistance of the ~~division~~ **Division of Child Care and Early Childhood Education**, shall adopt the appropriate criteria for identifying children and youth five through nineteen (5–19) years of age with the greatest need to participate in programs funded by the grant.

SECTION 1061. Arkansas Code § 6–5–1003(a)(1), concerning college and career readiness standards, is amended to read as follows:

<< AR ST § 6–5–1003 >>

(a)(1) The ~~Department~~ **Division** of Career **and Technical** Education shall work in collaboration with the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the ~~Department~~ **Division** of Higher Education to develop college and career readiness standards for career and technical education courses.

SECTION 1062. Arkansas Code § 6–5–1003(b)(6)(B), concerning college and career readiness standards, is amended to read as follows:

<< AR ST § 6–5–1003 >>

(B) The ~~Department~~ **Division** of Career **and Technical** Education, in collaboration with the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the ~~Department~~ **Division** of Higher Education, shall establish a common course numbering system that incorporates career and technical education courses at both the secondary and postsecondary level;

SECTION 1063. The introductory language of Arkansas Code § 6–5–1003(b)(8), concerning college and career readiness standards, is amended to read as follows:

<< AR ST § 6–5–1003 >>

(8) Comprehensive guidance counseling and academic advisory systems developed by the ~~Department~~ **Division** of Career **and Technical** Education in collaboration with the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the ~~Department~~ **Division** of Higher Education that:

SECTION 1064. Arkansas Code § 6–5–1004(a), concerning technical skills assessments by the Department of Career Education, is amended to read as follows:

<< AR ST § 6–5–1004 >>

(a) The ~~Department~~ **Division** of Career **and Technical** Education shall recognize valid and reliable technical skills assessments that provide evaluation of students' knowledge and skills necessary for entry into postsecondary education or a career in a selected program of study.

SECTION 1065. Arkansas Code § 6–5–1004(b)(1), concerning technical skills assessments by the Department of Career Education, is amended to read as follows:

<< AR ST § 6–5–1004 >>

(1)(A) Be a third-party, industry-recognized assessment approved by the ~~department~~ **division** that is based on current industry standards.

(B)(i) The ~~department~~ **division** shall provide a current list of approved third-party, industry-recognized assessments.

(ii) The third-party, industry-recognized assessments shall be reviewed and approved by the ~~department~~ **division** using a process developed by the ~~department~~ **division**;

SECTION 1066. Arkansas Code § 6–5–1004(b)(4)(B), concerning technical skills assessments by the Department of Career Education, is amended to read as follows:

<< AR ST § 6–5–1004 >>

(B) The ~~department~~ **division** shall provide technical assistance on career and technical education to secondary administrators and teachers.

SECTION 1067. Arkansas Code § 6–5–1102(b), concerning the establishment, membership, and meetings of the Council on Postsecondary Education and Career Readiness, is amended to read as follows:

<< AR ST § 6–5–1102 >>

(b) The council shall consist of eleven (11) members as follows:

- (1) The Commissioner of **Elementary and Secondary** Education or his or her designee;
- (2) The Director of the ~~Department~~ **Division** of Higher Education or his or her designee;
- (3) The Director of the ~~Department~~ **Division** of Career **and Technical** Education or his or her designee;
- (4) The ~~Executive~~ Director of the Arkansas Economic Development Commission or his or her designee;
- (5) The Director of the ~~Department~~ **Division** of Workforce Services or his or her designee;
- (6) A president or chancellor of an Arkansas four-year institution of higher education or his or her designee, appointed annually by the Director of the ~~Department~~ **Division** of Higher Education;
- (7) The Executive Director of the Arkansas Association of Educational Administrators or his or her designee;
- (8) The Executive Director of Arkansas Community Colleges or his or her designee;
- (9) The Executive Director of the Arkansas Education Association or his or her designee;
- (10) The Executive Director of the Arkansas School Boards Association or his or her designee; and

(11) The President of the Arkansas State Chamber of Commerce and the Associated Industries of Arkansas or his or her designee.

SECTION 1068. Arkansas Code § 6-5-1102(c)(1), concerning the establishment, membership, and meetings of the Council on Postsecondary Education and Career Readiness, are amended to read as follows:

<< AR ST § 6-5-1102 >>

(c)(1) The Commissioner of **Elementary and Secondary** Education or his or her designee shall call the first meeting of the council and serve as chair for the first meeting.

SECTION 1069. Arkansas Code § 6-5-1102(g), concerning the establishment, membership, and meetings of the Council on Postsecondary Education and Career Readiness, is amended to read as follows:

<< AR ST § 6-5-1102 >>

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

SECTION 1070. Arkansas Code § 6-5-1202(b)(1), concerning the purpose and grant funding of the Advanced Placement Training and Incentive Program, is amended to read as follows:

<< AR ST § 6-5-1202 >>

(b)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide grant funding to organizations that implement measures to achieve the goals of the Advanced Placement Training and Incentive Program.

SECTION 1071. The introductory language of Arkansas Code § 6-5-1202(c), concerning the purpose and grant funding of the Advanced Placement Training and Incentive Program, is amended to read as follows:

<< AR ST § 6-5-1202 >>

(c) Grant funding provided by the ~~department~~ **division** to an organization under this subchapter shall be used to:

SECTION 1072. Arkansas Code § 6-10-106(a)(2), concerning uniform dates for the beginning and the end of a school year, is amended to read as follows:

<< AR ST § 6-10-106 >>

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may grant a school district a waiver to begin school on an earlier or later date if the ~~department~~ **division** determines that there exists a material and substantial reason for the school district to begin on an earlier or later date due to very exceptional or emergency circumstances such as a contagious disease outbreak, inclement weather, or other acts of God.

SECTION 1073. Arkansas Code § 6-10-106(c)(2), concerning uniform dates for the beginning and the end of a school year, is amended to read as follows:

<< AR ST § 6-10-106 >>

(2) Provided, upon approval of the ~~department~~ **division**, this date may be used as a make-up day in any school district which has unavoidably lost more than five (5) scheduled days of student attendance during the course of the school year due to contagious disease outbreaks, inclement weather, or other acts of God.

SECTION 1074. Arkansas Code § 6-10-106(d)(3), concerning uniform dates for the beginning and the end of a school year, is amended to read as follows:

<< AR ST § 6-10-106 >>

(3) Nothing in this subsection shall prevent a public school district from providing fewer than five (5) consecutive school days for the spring break holiday to comply with the ~~department's~~ **division's** requirement for a minimum number of days for student attendance under the Standards for Accreditation of Arkansas Public Schools and School Districts.

SECTION 1075. Arkansas Code § 6-10-106(e), concerning uniform dates for the beginning and the end of a school year, is amended to read as follows:

<< AR ST § 6-10-106 >>

(e) The ~~department~~ **division** shall not grant a waiver from the requirements of this section unless this section specifically authorizes the waiver.

SECTION 1076. Arkansas Code § 6-10-110(a), concerning fire marshal programs for local school districts, is amended to read as follows:

<< AR ST § 6-10-110 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** is authorized and directed to cooperate with and assist local school districts in this state in the establishment of an Arkansas school fire marshal program.

SECTION 1077. Arkansas Code § 6-10-111(a), concerning the Equity Assistance Center, is amended to read as follows:

<< AR ST § 6-10-111 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** is authorized to establish a special section within its organization, to be known as the Equity Assistance Center, designed to provide assistance to the school districts of the state in such activities as affirmative action, program accessibility, human relations, awareness, and desegregation.

SECTION 1078. Arkansas Code § 6-10-111(c)(1), concerning the Equity Assistance Center, is amended to read as follows:

<< AR ST § 6-10-111 >>

(c)(1) The center created by this section shall be the liaison for the department **division** with the Office for Civil Rights of the United States Department of Education.

SECTION 1079. Arkansas Code § 6–10–111(d)–(f), concerning the Equity Assistance Center, are amended to read as follows:

<< AR ST § 6–10–111 >>

(d) Annually, each local school district in the state shall provide the center assurances of compliance with civil rights responsibilities in the form and at the time as is designated by the Commissioner of **Elementary and Secondary** Education.

(e) The department **division** may withhold state aid from any school district that fails to file its assurance of compliance with civil rights responsibilities by October 15 each year or fails to file any other information with a published deadline requested from school districts by the center so long as thirty (30) calendar days are given between the request for the information and the published deadline, except that thirty (30) days notice shall not be required when the request comes from a member or committee of the General Assembly.

(f) The department **division** is authorized to develop forms and promulgate appropriate rules, regulations, and procedures as may be required to implement the provisions of this section.

SECTION 1080. Arkansas Code § 6–10–118(a), concerning information about the availability of ARKids First, is amended to read as follows:

<< AR ST § 6–10–118 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall cooperate with and assist local school districts in this state in the establishment of a program to inform students about health care coverage under the ARKids First Program Act, § 20–77–1101 et seq.

SECTION 1081. Arkansas Code § 6–10–119(a)(1), concerning Medicaid billing by the Department of Education, is amended to read as follows:

<< AR ST § 6–10–119 >>

(a)(1) By May 1 of each year, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall identify school districts that are underperforming in the area of direct-service Medicaid billing.

(2) The department **division** shall direct identified school districts to increase direct-service Medicaid billing by district staff or enter into an agreement with an education service cooperative or other public or private entity for the provision of direct-service Medicaid billing services.

SECTION 1082. Arkansas Code § 6–10–122(c), concerning the requirement of automated external defibrillators at each school campus, is amended to read as follows:

<< AR ST § 6–10–122 >>

(c) Beginning in 2011, the Commissioner of **Elementary and Secondary** Education shall provide a report to the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor on

or before July 1 each year regarding the implementation of this section and the status of automated external defibrillator availability on each school campus.

SECTION 1083. Arkansas Code § 6–10–125(d), concerning keeping a school district's floor plan on file with the emergency management coordinator, is amended to read as follows:

<< AR ST § 6–10–125 >>

(d) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may adopt rules to implement this section.

SECTION 1084. Arkansas Code § 6–10–129 is amended to read as follows:

<< AR ST § 6–10–129 >>

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 explain data and other information if the data or other information is determined to be inaccurate, incomplete, unclear, or not in compliance with federal or state law or rule.

(2) Except as provided under subdivision (c)(1) of this section, data and other information shall not have to be resubmitted or explained in its original format or any other format.

(d) If the ~~Department of Education~~ **Division of Elementary and Secondary Education** or the ~~Department~~ **Division of Career and Technical Education** requires data or other information to be compiled into a format that is different from what was originally submitted by a school district or public school, the ~~Department of Education~~ **Division of Elementary and Secondary Education** or the ~~Department~~ **Division of Career and Technical Education** shall make the necessary format changes.

(e)(1) A school district or public school may submit by electronic means any signatures required when submitting reports or data and other information to the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the ~~Department~~ **Division of Career and Technical Education**.

(2) As used in this subsection, “electronic means” means any of the following:

(A) A scanned and emailed version of a paper document;

(B) A document submitted by facsimile transmission;

(C) An electronic signature system that includes a passcode and is administered by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; or

(D) Other technological means approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1085. Arkansas Code § 6–10–131(b), concerning immunity from civil liability, is amended to read as follows:

<< AR ST § 6–10–131 >>

(b) Personnel of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, including without limitation the Commissioner of **Elementary and Secondary Education**, are immune from civil liability and suit for damages for the enforcement of policies adopted by the State Board of Education or the ~~Department of Education~~ **Division of Elementary and Secondary Education** if the policies are in compliance with state or federal law.

SECTION 1086. Arkansas Code § 6–11–101(d)(2), concerning members of the State Board of Education, is amended to read as follows:

<< AR ST § 6–11–101 >>

(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 1087. Arkansas Code § 6–11–102(a), concerning the Commissioner of Education, is amended to read as follows:

<< AR ST § 6–11–102 >>

(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 1088. Arkansas Code § 6-11-102(c)(1)(A), concerning the Commissioner of Education, is amended to read as follows:

<< AR ST § 6-11-102 >>

(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 1089. Arkansas Code § 6-11-103(b), concerning officers of the State Board of Education, is amended to read as follows:

<< AR ST § 6-11-103 >>

(b) The Commissioner of **Elementary and Secondary** Education shall act as ex officio secretary of the state board without a vote.

SECTION 1090. Arkansas Code § 6-11-104(c)(1), concerning meetings of the State Board of Education, is amended to read as follows:

<< AR ST § 6-11-104 >>

(c)(1) Special meetings may be called by the chair of the state board with no less than twenty-four (24) hours notice to the members and the Commissioner of **Elementary and Secondary** Education and with timely responses from enough state board members that they will attend the meeting so as to indicate that a quorum will be present.

SECTION 1091. Arkansas Code § 6-11-105(a)(8)(B), concerning the powers and duties of the State Board of Education, is amended to read as follows:

<< AR ST § 6-11-105 >>

(B) However, this section shall not prohibit the state board and the ~~Department of Education~~ **Division of Elementary and Secondary Education** from issuing teachers' licenses upon the results of teachers' examinations as now provided by law;

SECTION 1092. Arkansas Code § 6-11-105(a)(9), concerning the powers and duties of the State Board of Education, is amended to read as follows:

<< AR ST § 6-11-105 >>

(9) Eliminate unnecessary reports and paperwork by yearly identifying and compiling a list of all reports that are required from local school districts by the department **division** or the state board for the school year;

SECTION 1093. Arkansas Code § 6–11–105(a)(10), concerning the powers and duties of the State Board of Education, is amended to read as follows:

<< AR ST § 6–11–105 >>

(10) Adopt policies to ensure, except as allowed under subsection (b) of this section, that local school districts are not required by the state board or the ~~department~~ **division** to:

(A) Provide information that is already available on a ~~department~~ **division** student information management system or housed within the ~~department~~ **division**;

(B) Provide the same written information more than one (1) time during a school year unless the information has changed during the school year; or

(C) Complete forms for children with disabilities that are not necessary to ensure compliance with federal statutes and regulations, including, but not limited to, the Individuals with Disabilities Education Act, state mandates, and corresponding appropriations governing the provision of special education services to students with disabilities; and

SECTION 1094. Arkansas Code § 6–11–105(a)(11)(B), concerning the powers and duties of the State Board of Education, is amended to read as follows:

<< AR ST § 6–11–105 >>

(B) The state board may designate the authority granted under this subdivision (a)(11) to the Commissioner of **Elementary and Secondary** Education.

SECTION 1095. Arkansas Code § 6–11–105(a), concerning the powers and duties of the State Board of Education, is amended to add an additional subdivision to read as follows:

<< AR ST § 6–11–105 >>

(12) Have general supervision of career and technical education.

SECTION 1096. Arkansas Code § 6–11–105(b) and (c), concerning the powers and duties of the State Board of Education, is amended to read as follows:

<< AR ST § 6–11–105 >>

(b) The state board may require information available on a ~~department~~ **division** student information management system or require the same information twice if the state board can demonstrate a compelling need and can demonstrate there is not a more expeditious manner of getting the information.

(c) The state board may organize and, from time to time, change and alter the ~~department~~ **division** into branches or sections as may be found necessary and desirable by the commissioner to perform all proper functions and to render maximum service relating to the operation and improvement of the general education programs of the state.

SECTION 1097. Arkansas Code § 6–11–107 is amended to read as follows:

<< AR ST § 6–11–107 >>

6–11–107. Official seal.

The State Board of Education shall adopt a seal, and the seal shall be used by the Commissioner of **Elementary and Secondary** Education to authenticate documents or copies of documents as the state board or commissioner may deem advisable.

SECTION 1098. Arkansas Code § 6–11–110(b), concerning the uniform system of records and reports by the State Board of Education, is amended to read as follows:

<< AR ST § 6–11–110 >>

(b) All the school officials and employees listed in subsection (a) of this section shall make reports to the Commissioner of **Elementary and Secondary** Education as may be designated by the state board.

SECTION 1099. Arkansas Code § 6–11–111(a), concerning records of proceedings and the annual report of the State Board of Education, is amended to read as follows:

<< AR ST § 6–11–111 >>

(a) The State Board of Education shall keep in the office of the Commissioner of **Elementary and Secondary** Education a complete record of the minutes of its meetings and other proceedings and annually shall make a report to the Governor that shall embody the report of the commissioner to the state board.

SECTION 1100. Arkansas Code § 6–11–111(c)(1), concerning records of proceedings and the annual report of the State Board of Education, is amended to read as follows:

<< AR ST § 6–11–111 >>

(c)(1) Each annual report of the state board shall be printed by the state board and distributed among the various school officers of the state or made available to public school districts by including a link to the annual report on the ~~Department of Education~~ **Division of Elementary and Secondary Education** website.

SECTION 1101. Arkansas Code § 6–11–117 is amended to read as follows:

<< AR ST § 6–11–117 >>

6–11–117. Copies of documents as evidence.

Copies of any papers or documents on file in the office of the Commissioner of **Elementary and Secondary** Education authenticated by him or her with the seal of the State Board of Education shall be admissible in evidence with the same effect as the original.

SECTION 1102. Arkansas Code § 6–11–124 is amended to read as follows:

<< AR ST § 6–11–124 >>

6–11–124. Statewide computer network.

(a)(1) Acts 1991, No. 1034, authorizes the Board of Trustees of the Arkansas Teacher Retirement System to provide a loan to the Department of Education, **now known as the Division of Elementary and Secondary Education**, for a statewide computer system capable of linking all public school systems and the department.

(2) In order to provide alternatives to accomplish the purposes of Acts 1991, No. 1034, the department, **now division**, is hereby authorized to enter into a contractual agreement with IMPAC Learning Systems, Inc., for the development of a statewide computer system capable of linking all public school systems and the department, **now division**, from funds provided by a loan from the Arkansas Teacher Retirement System.

(b) The State Board of Education shall maintain oversight authority over the approval of all standards, procedures, and specifications determined by the department, **now division**, regarding the purchase or lease of the statewide computer network in addition to maintaining oversight authority over the operational aspects of the system.

(c) The Commissioner of **Elementary and Secondary** Education may request from the Chief Fiscal Officer of the State a transfer of appropriation authorized for school district management and statewide data collection by the General Assembly to any other line item appropriation authorized for the department, **now division**, for the same purpose.

SECTION 1103. Arkansas Code § 6–11–125 is amended to read as follows:

<< AR ST § 6–11–125 >>

6–11–125. Legislative intent regarding information technology.

(a) The General Assembly finds that the State of Arkansas has provided the encouragement and the financial means to build a foundation for an information technology network linking local school districts and the ~~Department of Education~~ **Division of Elementary and Secondary Education**. The General Assembly further finds that the amount of information that local school districts and their personnel are required to furnish the ~~department~~ **division**, while essential, has become increasingly burdensome. The General Assembly therefore expresses its intent and commitment to ensuring that the ~~department~~ **division** utilizes and continually upgrades to the fullest extent possible the information technology network linking the various school districts and the ~~department~~ **division**.

(b) The State Board of Education, acting through the ~~department~~ **division**, shall use every means available to eliminate the amount of paperwork required by state law and regulations to be reported from each local school district by utilizing to the fullest extent possible, beginning no later than July 1, 1998, the information technology network linking local school districts and the ~~department~~ **division**.

SECTION 1104. Arkansas Code § 6–11–126 is amended to read as follows:

<< AR ST § 6–11–126 >>

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 1105. Arkansas Code § 6–11–128(a)(1), concerning the Arkansas Public School Computer Network, is amended to read as follows:

<< AR ST § 6-11-128 >>

(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 1106. The introductory language of Arkansas Code § 6-11-128(b), concerning the Arkansas Public School Computer Network, is amended to read as follows:

<< AR ST § 6-11-128 >>

(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 1107. Arkansas Code § 6-11-128(b)(1), concerning the Arkansas Public School Computer Network, is amended to read as follows:

<< AR ST § 6-11-128 >>

(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 1108. Arkansas Code § 6-11-128(b)(4), concerning the Arkansas Public School Computer Network, is amended to read as follows:

<< AR ST § 6-11-128 >>

(4) Creating and maintaining a process for documenting and monitoring the quality of data from its source of entry into the network to any educational data repository in the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 1109. The introductory language of Arkansas Code § 6-11-128(c)(1)(A), concerning the Arkansas Public School Computer Network, is amended to read as follows:

<< AR ST § 6-11-128 >>

(c)(1)(A) ~~Beginning with the 2007-2008 school year, the Department of Education~~ **The Division of Elementary and Secondary Education** shall:

SECTION 1110. Arkansas Code § 6-11-128(c)(2)(A)-(C), concerning the Arkansas Public School Computer Network, is amended to read as follows:

<< AR ST § 6-11-128 >>

(2)(A) ~~Beginning with the 2008–2009 school year, the Department of Education~~ **The Division of Elementary and Secondary Education** shall release monthly from the Arkansas Public School Computer Network selected financial and student management data submitted by public school districts for the previous month.

(B) The General Assembly and the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall determine by mutual agreement what financial and student management data will be selected for the monthly release.

(C) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall make the information available to the General Assembly in the Arkansas Public School Computer Network data warehouse by the tenth business day of each month.

SECTION 1111. Arkansas Code § 6–11–129(a)(1)(A)(v), concerning data school districts shall make accessible on a website, is amended to read as follows:

<< AR ST § 6–11–129 >>

(v) The school district budget for the ensuing year, which shall be posted on the website within thirty (30) days following the date required to be submitted to the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 1112. Arkansas Code § 6–11–129(b), concerning data school districts shall make accessible on a website, is amended to read as follows:

<< AR ST § 6–11–129 >>

(b) The ~~department~~ **division** shall make the information and data required by this section available and easily accessible on the ~~department's~~ **division's** website by including direct links to the websites of all Arkansas school districts.

SECTION 1113. Arkansas Code § 6–11–201(a), concerning the Director of the Department of Career Education, is amended to read as follows:

<< AR ST § 6–11–201 >>

(a)(1) The Director of the ~~Department~~ **Division** of Career **and Technical** Education, or a disbursing agent designated by him or her and approved by the ~~Career Education and Workforce Development Board~~ **State Board of Education**, shall give bond to the State of Arkansas as provided by law for other disbursing agents conditioned for the faithful performance of his or her duties and the faithful accounting for all the school money of the state, of any county, or of any school district that may come into his or her hands.

SECTION 1114. Arkansas Code § 6–11–208(a)(1) and (2), concerning the formation of the multiagency task force for the Regional Education Career Alternative School System for Adjudicated Youth, are amended to read as follows:

<< AR ST § 6-11-208 >>

(a)(1) A multiagency task force, staffed and supported by the ~~Department~~ **Division** of Career **and Technical** Education, is established and shall consist of five (5) members, including:

- (A) The Commissioner of **Elementary and Secondary** Education or his or her designee;
- (B) The Director of the ~~Department~~ **Division** of Career **and Technical** Education or his or her designee;
- (C) The Director of the ~~Department~~ **Division** of Higher Education or his or her designee;
- (D) The ~~Director~~ **Secretary** of the Department of Human Services or his or her designee; and
- (E) The Director of the ~~Department~~ **Division** of Workforce Services or his or her designee.

(2) Funding for the multiagency task force shall be provided by:

- (A) The ~~Department~~ **Division** of Career **and Technical** Education; or
- (B) Each agency that serves on the multiagency task force, in an equal amount **from available, eligible funding**.

SECTION 1115. Arkansas Code § 6-13-113 is amended to read as follows:

<< AR ST § 6-13-113 >>

6-13-113. School district desegregation orders — Orders.

(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the ~~Department of Education~~ **Division of Elementary and Secondary Education** in writing.

(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the ~~department~~ **division**:

- (1) A copy of the desegregation order or desegregation-related order;
- (2) The case heading and case number of each court case in which the order was entered;
- (3) The name and location of each court that maintains jurisdiction over the order; and
- (4) A description of the school choice student transfer desegregation obligations, if any, that the school district is subject to, related to the order.

(c) A school district that is released from court supervision related to a desegregation order or desegregation-related order shall promptly notify the ~~department~~ **division**.

(d) A school district that fails to meet the requirements of this section is in violation of the Standards for Accreditation of Arkansas Public Schools and School Districts.

(e) The ~~department~~ **division** shall post on the ~~department's~~ **division's** website all written notifications received as required by this section.

SECTION 1116. Arkansas Code § 6–13–631(h), concerning the effect of minority populations on elections, is amended to read as follows:

<< AR ST § 6–13–631 >>

(h)(1)(A) On or before August 1, 2002, and every decade thereafter, each and every school district shall submit to the ~~Department of Education~~ **Division of Elementary and Secondary Education** a letter stating whether or not its school district board of directors falls under this section.

(B) In that same letter, each school district that falls under this section shall state how it has complied with this section.

(C) Furthermore, in the same letter, any school district that believes that it is exempt from this section shall state under which provision it is exempt.

(2) The ~~department~~ **division** shall withhold twenty percent (20%) of the annual state funds allocation to a school district not in compliance with this section.

SECTION 1117. Arkansas Code § 6–13–635(b)(2)(B), concerning the school board review and approval of salary increases, is amended to read as follows:

<< AR ST § 6–13–635 >>

(B) Within thirty (30) days following the date of an audit report in which an auditor notes noncompliance under this section, the school district shall provide a copy of the audit report to the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1118. The introductory language of Arkansas Code § 6–13–635(b)(2)(C), concerning the school board review and approval of salary increases, is amended to read as follows:

<< AR ST § 6–13–635 >>

(C) Annually by October 1, the ~~department~~ **division** shall:

SECTION 1119. Arkansas Code § 6–13–701(c) and (d), concerning the powers and duties of the board of directors of Arkansas school districts, are amended to read as follows:

<< AR ST § 6–13–701 >>

(c) An executed certificate of appointment shall be filed with the county clerk, the county treasurer, and the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(d) School district treasurers shall execute a surety bond in such amount as may be required by the ~~director~~ **secretary**, who shall approve the bond. The premium on the bond shall be paid out of the funds of the school district.

SECTION 1120. Arkansas Code § 6-13-701(e)(2), concerning the powers and duties of school district boards of directors in Arkansas, is amended to read as follows:

<< AR ST § 6-13-701 >>

(2) To keep a record of all financial transactions of the school district on forms approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Arkansas Legislative Audit;

SECTION 1121. Arkansas Code § 6-13-701(e)(5), concerning the powers and duties of school district boards of directors in Arkansas, is amended to read as follows:

<< AR ST § 6-13-701 >>

(5) To make such financial reports to the ~~Department of Education~~ **Division of Elementary and Secondary Education** as are required by law;

SECTION 1122. Arkansas Code § 6-13-701(g)(2)(B), concerning the powers and duties of school district boards of directors in Arkansas, is amended to read as follows:

<< AR ST § 6-13-701 >>

(B) All activity funds and school food service funds shall be maintained and accounted for in accordance with guidelines and procedures established by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1123. Arkansas Code § 6-13-808(a), concerning the Arkansas Traveling Teacher Program, is amended to read as follows:

<< AR ST § 6-13-808 >>

(a) The Arkansas Traveling Teacher Program is hereby established and shall be administered by the ~~Department of Education~~ **Division of Elementary and Secondary Education** with the assistance of public school districts and education service cooperatives.

SECTION 1124. The introductory language of Arkansas Code § 6-13-808(b)(2), concerning the Arkansas Traveling Teacher Program, is amended to read as follows:

<< AR ST § 6-13-808 >>

(2) The parties shall enter into a written agreement, in the form established by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, that shall include without limitation the following:

SECTION 1125. Arkansas Code § 6-13-808(b)(2)(G)(ii), concerning the Arkansas Traveling Teacher Program, is amended to read as follows:

<< AR ST § 6-13-808 >>

(ii) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall not approve an agreement under this section unless the agreement requires the traveling teacher to be physically present in the receiving school district while the traveling teacher is teaching any course specified in the agreement.

SECTION 1126. Arkansas Code § 6-13-808(b)(3), concerning the Arkansas Traveling Teacher Program, is amended to read as follows:

<< AR ST § 6-13-808 >>

(3) The agreement shall be reviewed and approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education** under subsection (f) of this section.

SECTION 1127. The introductory language of Arkansas Code § 6-13-808(c), concerning the Arkansas Traveling Teacher Program, is amended to read as follows:

<< AR ST § 6-13-808 >>

(c) To the extent the agreement is approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**:

SECTION 1128. Arkansas Code § 6-13-808(c)(1)(B), concerning the Arkansas Traveling Teacher Program, is amended to read as follows:

<< AR ST § 6-13-808 >>

(B) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall reimburse the host school district for the amount of bonus paid to the traveling teacher; and

SECTION 1129. Arkansas Code § 6-13-808(c)(2)(B), concerning the Arkansas Traveling Teacher Program, is amended to read as follows:

<< AR ST § 6-13-808 >>

(B) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall reimburse the host school district for the amount of travel reimbursement paid by the host school district to the traveling teacher.

SECTION 1130. Arkansas Code § 6-13-808(d)-(g), concerning the Arkansas Traveling Teacher Program, are amended to read as follows:

<< AR ST § 6-13-808 >>

(d) Neither the ~~Department of Education~~ **Division of Elementary and Secondary Education** nor the State of Arkansas shall be obligated or liable to reimburse any bonus or travel expenses incurred under an agreement for traveling teacher

services under this section if the ~~Department of Education~~ **Division of Elementary and Secondary Education** has not reviewed and approved the entire agreement.

(e) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may, if feasible and if funding is available, establish an online registry of public school teachers willing to enter into an agreement for traveling teacher services under this section with information concerning the teacher's employing school district and any course the teacher is qualified to teach.

(f)(1) All proposed agreements among a host school district, a receiving school district, and a traveling teacher shall be submitted to the ~~Department of Education~~ **Division of Elementary and Secondary Education** by a date certain for review and approval by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall review each agreement with all requisite authority to approve or deny the agreement based on the provisions of law, rule, availability of funding, and discretionary determination as to the best use of state resources and funding.

(3) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall endeavor to consider approval of an agreement to:

(A) Place a traveling teacher with a receiving school district to maximize the efficiency of the traveling teacher's service to both the host and receiving school districts; and

(B) Minimize the extent and duration of any travel required.

(g)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall establish any rules and agreement forms necessary for the administration of the Arkansas Traveling Teacher Program.

(2) In establishing the rules, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall:

(A) Prioritize the approval of agreements for traveling teacher services based on subject-area course needs;

(B) Establish appropriate travel limitations;

(C) Develop a method of equitable distribution of traveling teachers among the area's education service cooperatives; and

(D) Provide a means by which education service cooperatives may assist in facilitating traveling teachers.

SECTION 1131. Arkansas Code § 6-13-903(c), concerning the powers of public school districts, is amended to read as follows:

<< AR ST § 6-13-903 >>

(c) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall not distribute state equalization aid directly to any educational cooperative.

SECTION 1132. Arkansas Code § 6-13-905(c), concerning the board of directors of cooperating school districts, is amended to read as follows:

<< AR ST § 6-13-905 >>

(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 1133. Arkansas Code § 6–13–906 is amended to read as follows:

<< AR ST § 6–13–906 >>

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 1134. Arkansas Code § 6–13–1002(b)(3), concerning the establishment and functions of the educational service cooperatives, is amended to read as follows:

<< AR ST § 6–13–1002 >>

- (3) Promoting coordination between school districts and the Department of Education **Division of Elementary and Secondary Education** in order to provide services which are consistent with the needs identified by school districts and the educational priorities of the state as established by the General Assembly or the state board.

SECTION 1135. Arkansas Code § 6–13–1011(a)(2), concerning personnel of education service cooperatives, is amended to read as follows:

<< AR ST § 6–13–1011 >>

- (2) In lieu of a salary schedule, an education service cooperative annually may submit to the Department of Education **Division of Elementary and Secondary Education** a complete listing of all employees of the education service cooperative and each employee's position, salary, and benefits.

SECTION 1136. Arkansas Code § 6–13–1012 is amended to read as follows:

<< AR ST § 6–13–1012 >>

6–13–1012. Agency personnel.

With the approval of an education service cooperative's governing body, the directors in the Department of Education **Director of the Division of Elementary and Secondary Education** may assign state educational agency personnel to that education service cooperative.

SECTION 1137. Arkansas Code § 6–13–1014 is amended to read as follows:

<< AR ST § 6–13–1014 >>

6–13–1014. Sharing and coordination of activities — Liaison.

(a) The Department of Education **Division of Elementary and Secondary Education** shall encourage sharing and coordination of activities among the education service cooperatives.

(b) The Commissioner of **Elementary and Secondary** Education shall name a person to serve as liaison between the department **division** and the education service cooperatives.

(c) This liaison shall provide information on resources and programs and be the general contact person in the department **division** for the education service cooperatives.

SECTION 1138. Arkansas Code § 6–13–1016(c), concerning annual surveys and needs assessments of education service cooperatives, is amended to read as follows:

<< AR ST § 6–13–1016 >>

(c) Each education service cooperative shall work with the Department of Education **Division of Elementary and Secondary Education** to conduct statewide surveys which complement, rather than duplicate, the work of the department **division**.

SECTION 1139. Arkansas Code § 6–13–1020(a)(3)(A), concerning policies, procedures, expenditures, reports, and audits to be filed with the State Board of Education, is amended to read as follows:

<< AR ST § 6–13–1020 >>

(3)(A) A report of its receipts and expenditures made in accordance with uniform accounting procedures adopted by the Commissioner of **Elementary and Secondary** Education.

SECTION 1140. Arkansas Code § 6–13–1020(b), concerning policies, procedures, expenditures, reports, and audits to be filed with the State Board of Education, is amended to read as follows:

<< AR ST § 6–13–1020 >>

(b) The Department of Education **Division of Elementary and Secondary Education** may prescribe the forms and procedures for filing the information required by subsection (a) of this section.

SECTION 1141. Arkansas Code § 6–13–1020(d)(2), concerning policies, procedures, expenditures, reports, and audits to be filed with the State Board of Education, is amended to read as follows:

<< AR ST § 6–13–1020 >>

(2) The education service cooperative shall supplement its report with written reports to each school district and to the department **division** on a school-by-school, service-by-service accounting basis.

SECTION 1142. Arkansas Code § 6–13–1021(a), concerning evaluations and performance ratings of education service cooperatives, is amended to read as follows:

<< AR ST § 6–13–1021 >>

(a) Each education service cooperative shall be evaluated during the 2012–2013 school year, and at least once within each five-year period, on a schedule established by the Commissioner of **Elementary and Secondary Education**, all active education service cooperatives must be visited by an evaluation committee of not more than nine (9) persons.

SECTION 1143. Arkansas Code § 6–13–1021(b)(1)(B), concerning evaluations and performance ratings of education service cooperatives, is amended to read as follows:

<< AR ST § 6–13–1021 >>

(B) The final evaluation, including any self-evaluation, shall be included in the annual report to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, § 6–13–1020, and made available on the website of the education service cooperative.

SECTION 1144. Arkansas Code § 6–13–1021(b)(2)(A), concerning evaluations and performance ratings of education service cooperatives, is amended to read as follows:

<< AR ST § 6–13–1021 >>

(2)(A) The evaluation criteria shall be developed collaboratively between the department **division** and the director of each education service cooperative.

SECTION 1145. Arkansas Code § 6–13–1021(e), concerning evaluations and performance ratings of education service cooperatives, is amended to read as follows:

<< AR ST § 6–13–1021 >>

(e) The department **division** shall promulgate rules necessary for implementing this section.

SECTION 1146. Arkansas Code § 6–13–1021(f)(2)(A), concerning evaluations and performance ratings of education service cooperatives, is amended to read as follows:

<< AR ST § 6–13–1021 >>

(A) A Department of Education **Division of Elementary and Secondary Education** staff member;

SECTION 1147. The introductory language of Arkansas Code § 6–13–1027(b), concerning the Education Service Cooperative Act of 1985, is amended to read as follows:

<< AR ST § 6–13–1027 >>

(b) Any education service cooperative that meets one (1) or more of the following criteria may be identified by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as being in fiscal distress upon final approval of the State Board of Education:

SECTION 1148. Arkansas Code § 6–13–1027(b)(1)(B), concerning the Education Service Cooperative Act of 1985, is amended to read as follows:

<< AR ST § 6–13–1027 >>

(B) The ~~department~~ **division** shall not use capital outlay expenditures from the education service cooperative's balance for facilities to identify the education service cooperative as being in fiscal distress;

SECTION 1149. Arkansas Code § 6–13–1027(b)(8), concerning the Education Service Cooperative Act of 1985, is amended to read as follows:

<< AR ST § 6–13–1027 >>

(8) Any other fiscal condition of the education service cooperative that the ~~department~~ **division** determines materially impacts the education service cooperative's delivery of education services.

SECTION 1150. Arkansas Code § 6–13–1027(c) and (d), concerning the Education Service Cooperative Act of 1985, are amended to read as follows:

<< AR ST § 6–13–1027 >>

(c)(1) The ~~department~~ **division** may identify an education service cooperative as being in fiscal distress at any time a fiscal condition of the education service cooperative is discovered to have a detrimental negative impact on the continuation of educational services provided by the education service cooperative.

(2)(A) If the ~~department~~ **division** identifies an education service cooperative as being in fiscal distress, the ~~department~~ **division** shall notify the education service cooperative in writing of the identification of fiscal distress within ten (10) calendar days.

(B) The ~~department~~ **division** shall identify in the notice each criteria for fiscal distress on which the ~~department~~ **division** based the identification of fiscal distress.

(C) The ~~department~~ **division** shall deliver the notice by certified mail, return receipt requested, and addressed to:

(i) The president of the education service cooperative's board of directors; and

(ii) The director of the education service cooperative employed under § 6–13–1010.

(d) The identification of fiscal distress made by the ~~department~~ **division** under this section may be appealed to the state board under § 6–13–1031 in which case the final order entered upon appeal is the final classification of fiscal distress.

SECTION 1151. Arkansas Code § 6–13–1027(e)(2), concerning the Education Service Cooperative Act of 1985, is amended to read as follows:

<< AR ST § 6–13–1027 >>

(2) File with the ~~department~~ **division** a fiscal distress plan under § 6–13–1028.

SECTION 1152. The introductory language of Arkansas Code § 6–13–1028(a), concerning the fiscal distress plan, is amended to read as follows:

<< AR ST § 6–13–1028 >>

(a) An education service cooperative that is classified by the State Board of Education as being in fiscal distress shall file with the ~~Department of Education~~ **Division of Elementary and Secondary Education** a fiscal distress plan that:

SECTION 1153. Arkansas Code § 6–13–1028(b) and (c), concerning the fiscal distress plan, are amended to read as follows:

<< AR ST § 6–13–1028 >>

(b) The ~~department~~ **division** shall approve the fiscal distress plan before the education service cooperative implements the fiscal distress plan.

(c) An education service cooperative identified as being in fiscal distress is required to receive on-site technical evaluation and assistance from the ~~department~~ **division**.

SECTION 1154. The introductory language of Arkansas Code § 6–13–1029(a), concerning fiscal distress actions, is amended to read as follows:

<< AR ST § 6–13–1029 >>

(a) To address the identified areas of fiscal distress of an education service cooperative, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall:

SECTION 1155. Arkansas Code § 6–13–1029(a)(1)(B), concerning fiscal distress actions, is amended to read as follows:

<< AR ST § 6–13–1029 >>

(B) The recommendations of the ~~department~~ **division** are binding on the education service cooperative;

SECTION 1156. The introductory language of Arkansas Code § 6–13–1029(b), concerning fiscal distress actions, is amended to read as follows:

<< AR ST § 6–13–1029 >>

(b) The ~~department~~ **division** also may take one (1) or more of the following actions:

SECTION 1157. Arkansas Code § 6–13–1029(b)(1)(A)(ii) and (iii), concerning fiscal distress actions, are amended to read as follows:

<< AR ST § 6–13–1029 >>

(ii) An individual appointed to replace the director shall administratively operate the education service cooperative under the supervision and approval of the Commissioner of **Elementary and Secondary** Education.

(iii) The ~~department~~ **division** may compensate ~~nondepartment~~ **nondivision** agents operating the education service cooperative from the education service cooperative's funding; and

SECTION 1158. Arkansas Code § 6–13–1029(c), concerning fiscal distress actions, is amended to read as follows:

<< AR ST § 6–13–1029 >>

(c) Within two (2) consecutive school years of the State Board of Education's final classification of fiscal distress, the ~~department~~ **division** shall determine whether to recommend that the education service cooperative be removed from fiscal distress status.

SECTION 1159. The introductory language of Arkansas Code § 6–13–1030(a), concerning the removal from fiscal distress status, is amended to read as follows:

<< AR ST § 6–13–1030 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall certify in writing to the education service cooperative that the education service cooperative may be removed from fiscal distress status when the ~~department~~ **division** determines that the education service cooperative has:

SECTION 1160. Arkansas Code § 6–13–1030(a)(2), concerning the removal from fiscal distress status, is amended to read as follows:

<< AR ST § 6–13–1030 >>

(2) Complied with all ~~department~~ **division** recommendations and requirements for removal from fiscal distress status.

SECTION 1161. Arkansas Code § 6–13–1030(b)(2), concerning removal from fiscal distress status, is amended to read as follows:

<< AR ST § 6–13–1030 >>

(2) An education service cooperative may not petition the state board for removal from fiscal distress status before the ~~department~~ **division** makes the certification under subsection (a) of this section.

SECTION 1162. Arkansas Code § 6–13–1031(b), concerning an appeal by an education service cooperative regarding its identification of fiscal distress, is amended to read as follows:

<< AR ST § 6–13–1031 >>

(b) The education service cooperative may lodge an appeal by filing a written appeal with the Commissioner of **Elementary and Secondary** Education by certified mail, return receipt requested, within thirty (30) days of the date the education service cooperative received notice of the identification of fiscal distress.

SECTION 1163. Arkansas Code § 6–13–1031(e), concerning an appeal by an education service cooperative regarding its identification of fiscal distress, is amended to read as follows:

<< AR ST § 6–13–1031 >>

(e) Notwithstanding any appeal rights in this section, no appeal shall stay the state board's or the ~~Department of Education's~~ **Division of Elementary and Secondary Education's** authority to take action to enforce the education service cooperative's compliance with financial management, accounting, auditing, and reporting procedures required by state or federal law and regulations.

SECTION 1164. Arkansas Code § 6–13–1104 is amended to read as follows:

<< AR ST § 6–13–1104 >>

6–13–1104. Powers and duties.

Any model rural early childhood consortium created pursuant to this subchapter shall have the authority to petition the ~~Department of Education~~ **Division of Elementary and Secondary Education** or the State Board of Education for waivers from present school standards to fulfill the purposes set forth in § 6–13–1101.

SECTION 1165. Arkansas Code § 6–13–1106(a)(2), concerning the criteria for an educational consortium, is amended to read as follows:

<< AR ST § 6–13–1106 >>

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall determine which applications are accepted in accordance with the state board's published criteria.

SECTION 1166. Arkansas Code § 6–13–1308 is amended to read as follows:

<< AR ST § 6–13–1308 >>

6–13–1308. Assistance by ~~Department of Education~~ Division of Elementary and Secondary Education.

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may develop sample guidelines to assist local boards of directors in the development of their policies.

(b) The ~~department~~ **division** may provide professional development activities to assist schools in implementing site-based decision making.

SECTION 1167. Arkansas Code § 6–13–1404(d)(2)(B), concerning the conditions under which the State Board of Education may consolidate school districts, is amended to read as follows:

<< AR ST § 6–13–1404 >>

(B) It shall be the duty of the ~~Department of Education~~ **Division of Elementary and Secondary Education** to make changes in the maps of the school districts to properly show the boundary lines of the resulting district or districts.

SECTION 1168. Arkansas Code § 6–13–1414(d), concerning a boundary change by the State Board of Education, is amended to read as follows:

<< AR ST § 6–13–1414 >>

(d) Upon an order from the state board to change or adjust boundary lines, it shall be the duty of the ~~Department of Education~~ **Division of Elementary and Secondary Education** to immediately make changes in the maps of the school districts of the county to show the changes of boundaries.

SECTION 1169. The introductory language of Arkansas Code § 6–13–1602, concerning the publication of an administrative consolidation list, is amended to read as follows:

<< AR ST § 6–13–1602 >>

By January 1 of each year, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall publish a:

SECTION 1170. Arkansas Code § 6–13–1603(a)(1), concerning administrative reorganization, is amended to read as follows:

<< AR ST § 6–13–1603 >>

(a)(1) Any school district included in the ~~Department of Education's~~ **Division of Elementary and Secondary Education's** consolidation list under § 6–13–1602 may voluntarily agree to administratively consolidate with or be annexed to another school district or districts in accordance with the requirements and limitations of this section.

SECTION 1171. Arkansas Code § 6–13–1603(g)(2), concerning administrative reorganization, is amended to read as follows:

<< AR ST § 6–13–1603 >>

(2) The school district fails to comply with the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the ~~department~~ **division**.

SECTION 1172. Arkansas Code § 6–13–1608(c)–(f), concerning an audit of all school districts by Arkansas Legislative Audit, are amended to read as follows:

<< AR ST § 6–13–1608 >>

(c)(1) Beginning on the date of publication of the consolidation list under § 6–13–1602 each year, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall have authority to oversee all fiscal and accounting-related matters of all school districts on the consolidation list and shall require those school districts to have accurate records necessary to close all books within sixty (60) days after the end of the fiscal year.

(2) No contract or other debt obligation incurred by a school district for which the ~~department~~ **Division of Elementary and Secondary Education** has oversight authority under this section shall be valid or enforceable against a resulting school district unless the contract or other debt obligation is preapproved in writing by the Commissioner of **Elementary and Secondary Education** or his or her designee.

(d) Any school that is involved in an administrative consolidation or administrative annexation shall have an audit started within thirty (30) days of the completion of the closing of the books by the school district.

(e) The ~~department~~ **Division of Elementary and Secondary Education** and Arkansas Legislative Audit shall jointly develop the scope and details of the comprehensive fiscal review consistent with the requirements of this section.

(f) A school district may not incur debt without the prior written approval of the ~~department~~ **Division of Elementary and Secondary Education** if the school district is identified by the ~~department~~ **Division of Elementary and Secondary Education** under § 6–13–1602(1) as having fewer than three hundred fifty (350) students according to the school district average daily membership in the school year immediately preceding the current school year.

SECTION 1173. Arkansas Code § 6–13–1610(a)(5), concerning the definition of “improper expenditure exceptions” under the laws establishing financial relief for debts acquired as a result of involuntary consolidations, is amended to read as follows:

<< AR ST § 6–13–1610 >>

(5) “Improper expenditure exceptions” means an erroneous expenditure of federal or state funds that is noted as an audit exception and has been determined by the ~~Department of Education~~ **Division of Elementary and Secondary Education** to require an expenditure of funds by the resulting district to be correct.

SECTION 1174. Arkansas Code § 6–13–1610(b), concerning financial relief for debts acquired as a result of involuntary consolidations, is amended to read as follows:

<< AR ST § 6–13–1610 >>

(b) If on July 1, 2004, or thereafter, the State Board of Education required an involuntary administrative consolidation under § 6–13–1603(a)(3) and the resulting district assumed excess accounts payable or improper expenditure exceptions incurred by the Act 60 school district before the July 1 administrative consolidation date that would have caused deficit spending if paid from the funds of the Act 60 school district, the ~~department~~ **Division of Elementary and Secondary Education** shall provide supplemental funding to the resulting district.

SECTION 1175. Arkansas Code § 6–13–1610(c)(2)(A), concerning financial relief for debts acquired as a result of involuntary consolidations, is amended to read as follows:

<< AR ST § 6–13–1610 >>

(2)(A) The amount of accounts payable, excess accounts payable, improper expenditure exceptions, and available funding shall be determined by the department **Division of Elementary and Secondary Education** based on information provided in a final audit and other verifiable fiscal information available to the department **division**.

SECTION 1176. Arkansas Code § 6-13-1610(d), concerning financial relief for debts acquired as a result of involuntary consolidations, is amended to read as follows:

<< AR ST § 6-13-1610 >>

(d)(1) Beginning on the date of the publication of the consolidation list under § 6-13-1602 each year, the department **division** shall have authority to oversee all fiscal and accounting-related matters of all school districts on the consolidation list and shall require these school districts to have accurate records necessary to close all books within sixty (60) days of the end of the fiscal year.

(2) No contract or other debt obligation incurred by a school district for which the department **division** has oversight authority under this section shall be valid or enforceable against a resulting district unless the contract or other debt obligation is preapproved in writing by the Commissioner of **Elementary and Secondary Education** or his or her designee.

SECTION 1177. The introductory language of Arkansas Code § 6-13-1611(a), concerning reports by administratively consolidated school districts, is amended to read as follows:

<< AR ST § 6-13-1611 >>

(a) By October 1 of each year, the resulting district or receiving district of any school district that was administratively consolidated or administratively annexed under §§ 6-13-1601 — 6-13-1603, ~~6-13-1604 [repealed]~~, and ~~6-13-1605 [repealed]~~ shall file a written report with the House Committee on Education, the Senate Committee on Education, and the Department of Education **Division of Elementary and Secondary Education** indicating:

SECTION 1178. The introductory language of Arkansas Code § 6-13-1611(b), concerning reports by administratively consolidated school districts, is amended to read as follows:

<< AR ST § 6-13-1611 >>

(b) The department **division** shall develop or approve a survey to be used by the resulting districts or receiving districts to capture perceptual data from parents and students regarding their opinions on:

SECTION 1179. The introductory language of Arkansas Code § 6-13-1612(c), concerning academic support centers, is amended to read as follows:

<< AR ST § 6-13-1612 >>

(c) The Department of Education **Division of Elementary and Secondary Education** shall:

SECTION 1180. Arkansas Code § 6-13-1613(a)(1), concerning minimum school district size waivers, is amended to read as follows:

<< AR ST § 6-13-1613 >>

(a)(1) A school district that is placed on the consolidation list published by the ~~Department of Education~~ **Division of Elementary and Secondary Education** under § 6-13-1602(2) may annually request a waiver from the average daily membership requirement of three hundred fifty (350) students from the State Board of Education.

SECTION 1181. Arkansas Code § 6-14-113(d), concerning election kits for school elections, is amended to read as follows:

<< AR ST § 6-14-113 >>

(d) The cost of the kits or packages prepared by the ~~Department of Education~~ **Division of Elementary and Secondary Education** pursuant to this section shall be paid from the maintenance funds provided for the ~~department~~ **division** by legislative appropriation.

SECTION 1182. Arkansas Code § 6-15-102 is amended to read as follows:

<< AR ST § 6-15-102 >>

6-15-102. Division of Public School Accountability.

(a)(1) To enhance the public's access to public school performance indicators and to better measure the benefits of the increasing public investment in Arkansas's schools, the General Assembly finds that a Division of Public School Accountability of **under** the ~~Department of Education~~ **Division of Elementary and Secondary Education** should be established under the direct operational control of the Commissioner of **Elementary and Secondary Education**.

(2) The foremost obligation of the ~~division~~ **Division of Public School Accountability** shall be to administer all monitoring and compliance activities dealing with academic and fiscal accountability for each school or school district and to report academic progress.

(b) There is created the Division of Public School Accountability of **under** the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(c) The ~~division~~ **Division of Public School Accountability** shall be under the supervision of the commissioner.

(d)(1)(A) The commissioner shall select an individual to serve as the ~~assistant commissioner~~ **Assistant Commissioner** of the ~~division~~ **Division of Public School Accountability**, and the ~~assistant commissioner~~ **Assistant Commissioner of the Division of Public School Accountability** shall serve at the pleasure of the commissioner.

(B) The commissioner may reassign as necessary appropriate staff for the ~~division~~ **Division of Public School Accountability** sufficient to fulfill all obligations for monitoring and reporting in the ~~division~~ **Division of Public School Accountability**.

(2) The person selected as the ~~assistant commissioner~~ **Assistant Commissioner of the Division of Public School Accountability** shall:

(A) Be a person of good moral character and qualified technically and by experience to direct the work of the ~~division~~ **Division of Public School Accountability**;

(B) Hold a master's degree or a higher level degree from an accredited institution; and

(C) Have ten (10) years of experience in an administrative, supervisory, or management position.

(3) No person who is related within the fourth degree of consanguinity or affinity to any member of the State Board of Education or to the commissioner shall be eligible to serve as the ~~assistant commissioner~~ **Assistant Commissioner of the Division of Public School Accountability**.

(e) With guidance and approval from the commissioner, the ~~assistant commissioner~~ **Assistant Commissioner of the Division of Public School Accountability** shall be responsible for hiring all employees of the ~~division~~ **Division of Public School Accountability**.

(f) The ~~division~~ **Division of Public School Accountability** shall have the following responsibilities:

(1) To monitor schools for compliance with:

(A) State and federal regulations;

(B) Legislative acts and court-ordered mandates;

(C) All standards of learning and accreditation as established by the state board; and

(D) All rules and regulations as established by the state board;

(2) To coordinate the analysis, dissemination, and reporting of all state-mandated assessment information;

(3) To coordinate the implementation and administration of:

(A) Longitudinal tracking and trend data collection as established by the state board for the purposes of improving student and school performance, ensuring mastery of the curriculum, and providing comparisons between students within Arkansas and with students in other states;

(B) Value-added assessments as established by the state board; and

(C) The annual school performance reports as established by the state board;

(4) To administer all monitoring and compliance activities dealing with academic and fiscal accountability as established by the state board; and

(5) To work with program approval and licensure sections of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the ~~Department~~ **Division** of Higher Education, the ~~Department~~ **Division** of Career and **Technical** Education, and the individual colleges to provide information that will contribute to reasonable, equitable, and excellent preparation of licensed personnel in public and private institutions of higher education.

(g)(1) The ~~division~~ **Division of Public School Accountability** shall provide annual reports of school performance or compliance to the Joint Interim Oversight Committee on Education Reform, the House Committee on Education, and the Senate Committee on Education.

(2) A preliminary report shall be provided by January 1 of each year, and a follow-up report that includes information regarding on-site visits shall be filed by June 1 of each year.

SECTION 1183. Arkansas Code § 6-15-202(a)(1), concerning accreditation and development of regulations and standards by the State Board of Education, is amended to read as follows:

<< AR ST § 6-15-202 >>

(a)(1) The State Board of Education is authorized and directed to develop comprehensive regulations, criteria, and standards to be used by the state board and the ~~Department of Education~~ **Division of Elementary and Secondary Education** in the accreditation of school programs in elementary and secondary public schools in this state.

SECTION 1184. Arkansas Code § 6-15-202(b)(2)(B)(iii), concerning accreditation and development of regulations and standards by the State Board of Education, is amended to read as follows:

<< AR ST § 6-15-202 >>

(iii) The ~~department~~ **division** verifies in writing to the state board that all of the curriculum frameworks for the two (2) separate courses are included in the proposed combined or embedded course; and

SECTION 1185. 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:

<< AR ST § 6-15-202 >>

(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 1186. 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:

<< AR ST § 6-15-202 >>

(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 1187. 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:

<< AR ST § 6-15-202 >>

(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 1188. 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:

<< AR ST § 6-15-202 >>

(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.

(h) The department **division** shall establish a form for the written statement of assurance required under subsection (f) of this section and shall establish a date or dates by which school districts shall submit the written statement of assurance required under subsection (f) of this section.

SECTION 1189. The introductory language of Arkansas Code § 6-15-202(i), concerning accreditation and development of regulations and standards by the State Board of Education, is amended to read as follows:

<< AR ST § 6-15-202 >>

(i) If any superintendent fails to file a written statement of assurance as required by the commissioner under subsection (f) of this section by the date established by the department **division** or knowingly submits false information or if the department **division** determines the information in the statement is inaccurate or incomplete, the department **division** may:

SECTION 1190. Arkansas Code § 6-15-203(a), concerning notification of school for failure to meet standards for accreditation and appeal, are amended to read as follows:

<< AR ST § 6-15-203 >>

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** annually shall notify all schools or school districts failing to meet standards for accreditation for elementary and secondary schools not later than May 1 of each year of this determination.

(2)(A) However, at any time the department **division** may immediately notify a public school or school district failing to meet standards for accreditation for elementary and secondary schools when the failure is discovered by the department **division** under § 6-15-202(i).

(B) A public school or school district notified by the department **division** of the public school's or school district's failure to meet the standards for accreditation due to actions taken under § 6-15-202(i) shall have the same period of time to appeal to the State Board of Education as provided under subdivision (b)(3) of this section.

SECTION 1191. Arkansas Code § 6-15-203(b)(1), concerning notification of school for failure to meet standards for accreditation and appeal, are amended to read as follows:

<< AR ST § 6-15-203 >>

(b)(1) In the event that a school district affected by this subchapter believes the department **division** has improperly determined that a school or school district fails to meet the standards for accreditation, the school district shall have a right of appeal thereafter to the state board.

SECTION 1192. Arkansas Code § 6–15–206(a), concerning a school's subsequent failure to meet standards for accreditation, is amended to read as follows:

<< AR ST § 6–15–206 >>

(a) Any school or school district which fails to meet current standards for accreditation as determined by the Department of Education **Division of Elementary and Secondary Education** shall be classified as probationary.

SECTION 1193. Arkansas Code § 6–15–206(b)(2), concerning a school's subsequent failure to meet standards for accreditation, is amended to read as follows:

<< AR ST § 6–15–206 >>

(2) The department **division** shall prepare and promulgate regulations and guidelines for the maximum times allowable for correction of any violations of standards, provided no probationary status violation may exist for more than two (2) consecutive school years.

SECTION 1194. Arkansas Code § 6–15–206(c)(2), concerning a school's subsequent failure to meet standards for accreditation, is amended to read as follows:

<< AR ST § 6–15–206 >>

(2) The department **division** shall review annually the educational standards of school districts for the purpose of determining whether standards for accreditation of the schools therein are in compliance with current state standards for accreditation.

SECTION 1195. Arkansas Code § 6–15–206(d)(1), concerning a school's subsequent failure to meet standards for accreditation, is amended to read as follows:

<< AR ST § 6–15–206 >>

(d)(1) The department **division** shall conduct a review of each school's compliance if the department **division** has reason to believe that the school district or any school within the public school district has fallen below standards for accreditation.

SECTION 1196. Arkansas Code § 6–15–206(e), concerning a school's subsequent failure to meet standards for accreditation, is amended to read as follows:

<< AR ST § 6–15–206 >>

(e) The department **division** shall cooperate with local schools and school authorities in order to assist affected school districts and schools therein to achieve compliance with the standards for accreditation as provided in this subchapter.

SECTION 1197. Arkansas Code § 6–15–213(3) and (4), concerning courses that should be considered as taught under certain circumstances, are amended to read as follows:

<< AR ST § 6–15–213 >>

(3) The school district provides written proof, as required by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, that the school district had the course scheduled to be taught on the school district's master course schedule during the entire time the course was required to be taught;

(4) The school district provides written proof, as required by the ~~department~~ **Division of Elementary and Secondary Education**, that the school district had a properly licensed teacher employed and able to teach the required course during the entire time the course was required to be taught on site at the school district, by independent study, or has access to the course via distance education approved by the ~~department~~ **Division of Elementary and Secondary Education**, and the course was listed on the school district's master course schedule; and

SECTION 1198. Arkansas Code § 6–15–214(b)(1), concerning advanced placement courses counted as core curriculum courses, is amended to read as follows:

<< AR ST § 6–15–214 >>

(b)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** acknowledges that the rigor and level of difficulty of advanced placement courses exceed the requirements of regular courses.

SECTION 1199. Arkansas Code § 6–15–214(d), concerning advanced placement courses counted as core curriculum courses, is amended to read as follows:

<< AR ST § 6–15–214 >>

(d)(1) The public school district shall notify the ~~department~~ **division** after registration in the spring before the beginning of the new school year and immediately after the school year begins if no students enrolled in the required course and the public school district will seek to meet the standards for accreditation using the advanced placement course.

(2) Upon receiving the public school district notification and after spring registration, the ~~department~~ **division** shall permit the public school district to meet the standards for accreditation by teaching the advanced placement course in place of the required course.

SECTION 1200. Arkansas Code § 6–15–214(f), concerning advanced placement courses counted as core curriculum courses, is amended to read as follows:

<< AR ST § 6–15–214 >>

(f) The ~~department~~ **division** shall establish procedures to ensure that no student is coerced into taking an advanced placement course for the purpose of meeting the standards for accreditation.

SECTION 1201. Arkansas Code § 6–15–215(b)(2), concerning the definition of “Smart Core” under the Arkansas Smart Core Incentive Funding Program, is amended to read as follows:

<< AR ST § 6–15–215 >>

(2) “Smart Core” means the curriculum established by the ~~Department of Education~~ **Division of Elementary and Secondary Education** under the Standards for Accreditation of Arkansas Public Schools and School Districts that is part of Smart Future, a state initiative focused on improving Arkansas public high schools for all students; and

SECTION 1202. Arkansas Code § 6–15–215(e), concerning the Arkansas Smart Core Incentive Funding Program, is amended to read as follows:

<< AR ST § 6–15–215 >>

(e)(1) Subject to an appropriation and available funding for the program, the ~~department~~ **division** shall pay incentive funding to a school district under this section based on an annual percentage of Smart Core graduates from a public high school in the school district.

(2)(A) The ~~department~~ **division** shall make the calculation based on a student record analysis conducted annually by the ~~department~~ **division** beginning with the graduating class of 2010.

(B) The ~~department~~ **division** shall exclude from the student record analysis a student with an individualized education program that does not require a student to complete the Smart Core curriculum.

SECTION 1203. The introductory language of Arkansas Code § 6–15–215(f)(1), concerning the Arkansas Smart Core Incentive Funding Program, is amended to read as follows:

<< AR ST § 6–15–215 >>

(f)(1) By June 30 of each year, the ~~department~~ **division** shall pay to a school district incentive funding under the program as follows:

SECTION 1204. Arkansas Code § 6–15–215(f)(2), concerning the Arkansas Smart Core Incentive Funding Program, is amended to read as follows:

<< AR ST § 6–15–215 >>

(2) The ~~department~~ **division** shall not pay incentive funding to a school district for a public high school in which less than ninety percent (90%) of its graduates complete the Smart Core curriculum.

SECTION 1205. Arkansas Code § 6–15–216(a)(1), concerning flexibility in awarding course credit, is amended to read as follows:

<< AR ST § 6–15–216 >>

(a)(1) Beginning in the 2018–2019 school year, a public school district may submit a plan for approval to the ~~Department of Education~~ **Division of Elementary and Secondary Education** to award units of high school course credit based on a demonstration of subject matter competency instead of, or in combination with, completing hours of classroom instruction.

SECTION 1206. Arkansas Code § 6–15–216(c), concerning flexibility in awarding course credit, is amended to read as follows:

<< AR ST § 6–15–216 >>

(c) The ~~department~~ **division** may promulgate rules to implement this section, including without limitation guidelines to assist public school districts in transitioning to awarding credits as provided under this section.

SECTION 1207. Arkansas Code § 6–15–503(c), concerning prerequisites to home schooling, is amended to read as follows:

<< AR ST § 6–15–503 >>

(c) Each local school district shall report the statistical data required by this section to the ~~Department of Education~~ **Division of Elementary and Secondary Education** each year.

SECTION 1208. Arkansas Code § 6–15–503(e), concerning prerequisites to home schooling, is amended to read as follows:

<< AR ST § 6–15–503 >>

(e) The ~~department~~ **division** and the student's local school district shall not create additional criteria or require additional information for a student to attend a home school beyond that provided in this section.

SECTION 1209. Arkansas Code § 6–15–902(c)(3)(B)(i), concerning grading scales, exemptions, and special education classes, is amended to read as follows:

<< AR ST § 6–15–902 >>

(B)(i) If a local school district board of directors adopts a policy as set forth in subdivision (c)(3)(A) of this section, the school district must apply to the ~~Department of Education~~ **Division of Elementary and Secondary Education** through the Assistant Commissioner for **the Division of Public School** Accountability for approval of courses to be designated “concurrent enrollment college courses”.

SECTION 1210. Arkansas Code § 6–15–1003(c)(2), concerning academically competent students, is amended to read as follows:

<< AR ST § 6–15–1003 >>

(2) School districts, schools, and students shall participate in the state assessments in the basic core of knowledge and skills as defined by the ~~Department of Education~~ **Division of Elementary and Secondary Education** in the Arkansas Educational Support and Accountability Act, § 6–15–2901 et seq.

SECTION 1211. Arkansas Code § 6–15–1004(a)(2), concerning qualified teachers in every public school room, is amended to read as follows:

<< AR ST § 6–15–1004 >>

(2) If there is no assessment available under subdivision (a)(1) of this section for a new licensure area for subject matter content, the ~~Department of Education~~ **Division of Elementary and Secondary Education** may request that the state board approve an alternative method of demonstrating subject matter content competency.

SECTION 1212. Arkansas Code § 6–15–1004(c)(2)(A)(ii) and (iii), concerning qualified teachers in every public school room, are amended to read as follows:

<< AR ST § 6–15–1004 >>

(ii) Part of the requirements for the teacher to obtain additional licensure in a subject matter that has been designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as having a critical shortage of teachers; or

(iii) Otherwise approved by the ~~department~~ **Division of Elementary and Secondary Education** under subdivision (c)(2)(B) of this section as a graduate-level course eligible for professional development credit.

SECTION 1213. Arkansas Code § 6–15–1004(d)(3), concerning qualified teachers in every public school room, is amended to read as follows:

<< AR ST § 6–15–1004 >>

(3) A technical permit issued in cooperation with the ~~Department~~ **Division** of Career **and Technical** Education;

SECTION 1214. Arkansas Code § 6–15–1005(g)(4)(B), concerning safe, equitable, and accountable public schools, is amended to read as follows:

<< AR ST § 6–15–1005 >>

(B) Schools reaching predetermined high levels of achievement will be granted charter status with approval of the charter petition by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1215. Arkansas Code § 6–15–1006 is amended to read as follows:

<< AR ST § 6–15–1006 >>

6–15–1006. Assistance and support.

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** will be structured to provide leadership, service, and support to public schools.

(2) ~~Department~~ **Division** professional staff will demonstrate mastery of knowledge in learning theory, best educational practices, resource utilization, research and data analysis, school law, instructional leadership, and school administration.

(b)(1) ~~Department~~ **Division** staff will conduct, sponsor, participate in, and support continuing education and professional development.

(2) The continuing education and professional development will be based on overall organizational improvement, performance evaluation results, statewide student achievement results, and current educational research and practice.

(c)(1) The ~~department~~ **division** will provide leadership in marshalling support for a quality and equitable educational system in the state.

(2) ~~Department~~ **Division** resources will be committed to supporting policy development and procedures that enable the Governor, the General Assembly, the State Board of Education, and business and professional organizations to work together in a positive and consistent manner to improve education in Arkansas.

SECTION 1216. Arkansas Code § 6–15–1101(a), concerning legislative findings regarding attaching seals to high school transcripts and diplomas, is amended to read as follows:

<< AR ST § 6–15–1101 >>

(a) The General Assembly hereby recognizes and acknowledges that in recent years a high school diploma has lost credibility as a warranty that the recipient has the basic knowledge and skills necessary for either an entry-level job or for postsecondary education. The General Assembly further recognizes that the State Board of Education, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and local school districts have worked diligently to establish and implement a core curriculum in Arkansas secondary schools. Students who complete the core curriculum with a satisfactory grade point average should receive recognition for both perseverance and a job well done. It is the purpose of this legislation to both further that recognition and to increase the confidence of Arkansans in the value of diplomas awarded by the state's public schools.

SECTION 1217. Arkansas Code § 6–15–1301(a), concerning the creation, composition, powers and duties of the Department of Education, is amended to read as follows:

<< AR ST § 6–15–1301 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** is directed to create a Safe Schools Committee.

SECTION 1218. Arkansas Code § 6–15–1301(b)(1)(D), concerning the creation, composition, powers and duties of the Department of Education, is amended to read as follows:

<< AR ST § 6–15–1301 >>

(D) A staff member of the ~~department~~ **division** appointed by the Commissioner of **Elementary and Secondary Education**;

SECTION 1219. Arkansas Code § 6–15–1402(a), concerning the purpose, report, confidentiality, and rules of public schools, is amended to read as follows:

<< AR ST § 6–15–1402 >>

(a)(1) In order to generally improve public school accountability, to provide benchmarks for measuring individual school improvement, and to empower parents and guardians of children enrolled in Arkansas public schools by providing them with the information to judge the quality of their schools, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall annually prepare and publish a school performance report for each individual public school in the state, including the Arkansas School for the Deaf, the Arkansas School for the Blind, and the Arkansas School

for Mathematics, Sciences, and the Arts, and shall distribute the report to the House Committee on Education and the Senate Committee on Education no later than April 15 each year.

(2) The school performance report for each school shall be made available to every parent or guardian of a child in kindergarten through grade twelve (K–12) in the public schools of Arkansas by posting the school performance report for each school on the website of the ~~department~~ **division** and the website of the school district in which the public schools addressed in the school performance report are located no later than April 15 each year.

SECTION 1220. Arkansas Code § 6–15–1402(b)(1)(A), concerning the purpose, report, confidentiality, and rules of public schools, is amended to read as follows:

<< AR ST § 6–15–1402 >>

(b)(1)(A) The school performance report shall be based on reliable statistical information uniformly required to be collected and submitted by each local school district to the ~~department~~ **division** and shall be published in a format that can be easily understood by parents or guardians who are not professional educators.

SECTION 1221. Arkansas Code § 6–15–1402(b)(1)(C), concerning the purpose, report, confidentiality, and rules of public schools, is amended to read as follows:

<< AR ST § 6–15–1402 >>

(C) The ~~department~~ **division** may contract with individuals or businesses knowledgeable in the areas of graphic and computer design to ensure that the school performance reports required by this subchapter are published in a format that encourages their utilization by the citizens of the state.

SECTION 1222. 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:

<< AR ST § 6–15–1402 >>

(d) The ~~department~~ **division** is encouraged to:

SECTION 1223. Arkansas Code § 6–15–1402(d)(1), concerning the purpose, report, confidentiality, and rules of public schools, is amended to read as follows:

<< AR ST § 6–15–1402 >>

(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 1224. Arkansas Code § 6–15–1402(f)(1), concerning the purpose, report, confidentiality, and rules of public schools, is amended to read as follows:

<< AR ST § 6–15–1402 >>

(f)(1) The ~~department~~ **division** shall not disclose parent or guardian names, addresses, or other identifying information under any circumstances.

SECTION 1225. Arkansas Code § 6–15–1402(h), concerning the purpose, report, confidentiality, and rules of public schools, is amended to read as follows:

<< AR ST § 6–15–1402 >>

(h) The ~~department~~ **division** may promulgate rules necessary to carry out the purposes of this subchapter.

SECTION 1226. 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:

<< AR ST § 6–15–1504 >>

(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 1227. Arkansas Code § 6–15–1505(b)–(d), concerning school district implementation, is amended to read as follows:

<< AR ST § 6–15–1505 >>

(b) The superintendent of each school district shall provide to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, by October 1 of each year following the adoption of the plan under subsection (a) of this section, a written statement of assurance that the content of each class and subject area, as required by the Standards for Accreditation of Arkansas Public Schools and School Districts regardless of levels, is aligned to content standards and curriculum frameworks developed by the state board in the plan.

(c) The ~~department~~ **division** shall monitor, during the standards review visit, documentation related to the plan.

(d) If the ~~department~~ **division** determines that a school district has failed to align the content of each class and subject area as required by the state board to content standards and curriculum frameworks developed by the state board, the ~~department~~ **division** shall:

(1) Note the failure to comply in the annual school performance report under § 6–15–1402; and

(2) Cite the failure to comply of each school on the Standards for Accreditation of Arkansas Public Schools and School Districts Annual Report.

SECTION 1228. Arkansas Code § 6–15–1601(g)(2)–(4), concerning the establishment and members of the Commission on Closing the Achievement Gap in Arkansas, are amended to read as follows:

<< AR ST § 6–15–1601 >>

(2) Monitor the ~~Department of Education's~~ **Division of Elementary and Secondary Education's** efforts to comply with federal guidelines on improving the academic achievement of the disadvantaged, specifically including without limitation the Elementary and Secondary Education Act of 1965, Pub. L. No. 89–10, as reauthorized by the Every Student Succeeds Act, Pub. L. No. 114–95;

(3)(A) Monitor the department's **division's** identification of population groups to be motivated in closing the achievement gap efforts.

(B) The commission may expand the role and scope of the commission to cover specific population groups as identified by the department **division** as target groups for closing the achievement gaps;

(4) Receive national school lunch data and reports biennially from the department **division**;

SECTION 1229. Arkansas Code § 6-15-1601(g)(6)(C), concerning the establishment and members of the Commission on Closing the Achievement Gap in Arkansas, is amended to read as follows:

<< AR ST § 6-15-1601 >>

(C) A review of policies and programs approved by the department **division** for national school lunch expenditures on closing the achievement gap;

SECTION 1230. Arkansas Code § 6-15-1601(g)(6)(H), concerning the establishment and members of the Commission on Closing the Achievement Gap in Arkansas, is amended to read as follows:

<< AR ST § 6-15-1601 >>

(H) Suggested policy changes to improve the achievement gap at the legislative, department **division**, school district, and other levels; and

SECTION 1231. The introductory language of Arkansas Code § 6-15-1601(h), concerning the establishment and members of the Commission on Closing the Achievement Gap in Arkansas, is amended to read as follows:

<< AR ST § 6-15-1601 >>

(h) At the discretion of the Commissioner of **Elementary and Secondary** Education, the state shall provide resources necessary for the following:

SECTION 1232. Arkansas Code § 6-15-1601(k)(1), concerning the establishment and members of the Commission on Closing the Achievement Gap in Arkansas, is amended to read as follows:

<< AR ST § 6-15-1601 >>

(k)(1) The department **division** shall provide meeting space and clerical support as needed by the commission.

SECTION 1233. Arkansas Code § 6-15-1702(b)(5)(B)(ii)(b), concerning a parental involvement plan, is amended to read as follows:

<< AR ST § 6-15-1702 >>

(b) The use of and access to ~~Department of Education~~ **Division of Elementary and Secondary Education** website tools for parents;

SECTION 1234. Arkansas Code § 6-15-1702(b)(5)(B)(ii)(d), concerning a parental involvement plan, is amended to read as follows:

<< AR ST § 6-15-1702 >>

(d) Other strategies or curricula developed or acquired by the school district for at-home parental instruction approved by the ~~department~~ **division**; and

SECTION 1235. Arkansas Code § 6-15-1704(a)(1), concerning monitoring and annual review of parental involvement plans, is amended to read as follows:

<< AR ST § 6-15-1704 >>

(1) File a copy of the plan with the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 1236. The introductory language of Arkansas Code § 6-15-1704(b)(1)(A), concerning monitoring and annual review of parental involvement plans, is amended to read as follows:

<< AR ST § 6-15-1704 >>

(b)(1)(A) The ~~department~~ **division** shall:

SECTION 1237. The introductory language of Arkansas Code § 6-15-1704(b)(1)(B), concerning monitoring and annual review of parental involvement plans, is amended to read as follows:

<< AR ST § 6-15-1704 >>

(B) Periodically on a rotating schedule, the ~~department~~ **division** shall monitor each school district's plan to:

SECTION 1238. The introductory language of Arkansas Code § 6-15-1704(b)(1)(C), concerning monitoring and annual review of parental involvement plans, is amended to read as follows:

<< AR ST § 6-15-1704 >>

(C) The ~~department~~ **division** shall place priority for monitoring under subdivision (b)(1)(B) of this section on school districts that have been identified as being in:

SECTION 1239. The introductory language of Arkansas Code § 6–15–1704(b)(2), concerning monitoring and annual review of parental involvement plans, is amended to read as follows:

<< AR ST § 6–15–1704 >>

(2) By January 1 of each year, the ~~department~~ **division** shall provide any recommendations in writing to a school district:

SECTION 1240. Arkansas Code § 6–15–1704(b)(3), concerning monitoring and annual review of parental involvement plans, is amended to read as follows:

<< AR ST § 6–15–1704 >>

(3) The ~~department~~ **division** shall allow the school district an opportunity to implement the ~~department's~~ **division's** recommendations.

SECTION 1241. The introductory language of Arkansas Code § 6–15–1705, concerning the incorporation of parental involvement into teacher education programs, is amended to read as follows:

<< AR ST § 6–15–1705 >>

The ~~Department of Education~~ **Division of Elementary and Secondary Education** and the ~~Department~~ **Division** of Higher Education shall collaborate with institutions of higher education to incorporate into teacher and administrator education programs instruction regarding:

SECTION 1242. Arkansas Code § 6–15–1901(c), concerning the establishment of a Delta Student Academic Success Plan, is amended to read as follows:

<< AR ST § 6–15–1901 >>

(c) The Chancellor of the University of Arkansas at Pine Bluff may enter into an agreement with the superintendents of the school districts within Arkansas, Chicot, Drew, Jefferson, and Lincoln counties to implement the plan to the extent that the plan does not conflict with Arkansas law or with the standards set forth by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1243. Arkansas Code § 6–15–2006(a)(1)(C)(ii), concerning an annual report by school districts, is amended to read as follows:

<< AR ST § 6–15–2006 >>

(ii) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may promulgate rules to implement this section.

SECTION 1244. Arkansas Code § 6–15–2008 is amended to read as follows:

<< AR ST § 6-15-2008 >>

6-15-2008. Technical assistance.

(a) The Department of Education **Division of Elementary and Secondary Education** shall provide technical assistance as needed to aid school districts in administering this subchapter.

(b)(1) At least semiannually, the department **division** shall provide a report to the House Committee on Education and the Senate Committee on Education setting forth the school districts requesting assistance, the date of the requests, and the dates and actions taken.

(2) The department **division** shall further report the results of the action taken or assistance provided.

SECTION 1245. Arkansas Code § 6-15-2101(a)(1) and (2), concerning school rating systems and annual reports, are amended to read as follows:

<< AR ST § 6-15-2101 >>

(a)(1) The Department of Education **Division of Elementary and Secondary Education** shall prepare annual reports of the results of the statewide assessment program that describe student achievement in each school district and each school in the state and the school performance category levels under § 6-15-2103.

(2) The department **division** shall prescribe the design and content of these reports that shall include without limitation descriptions of achievement of all schools participating in any assessment program and all of their major student populations as determined by the department **division**, provided that the provisions of § 6-15-2909 pertaining to student records apply to this section.

SECTION 1246. Arkansas Code § 6-15-2101(b)(1), concerning school rating systems and annual reports, is amended to read as follows:

<< AR ST § 6-15-2101 >>

(b)(1) The department **division** shall provide information regarding performance of students and educational programs as required under §§ 6-15-2907 and 6-15-2301 and implement a system of school reports as required by statute and State Board of Education rule.

SECTION 1247. Arkansas Code § 6-15-2104 is amended to read as follows:

<< AR ST § 6-15-2104 >>

6-15-2104. Mobility.

The Department of Education **Division of Elementary and Secondary Education** shall study the effects of mobility on the performance of highly mobile students and recommend programs to improve the performance of such students.

SECTION 1248. Arkansas Code § 6-15-2105(b)(1), concerning school rating systems, school ratings and performance category level measurement, and publication, is amended to read as follows:

<< AR ST § 6-15-2105 >>

(b)(1) Each school's designation or rating shall be published annually by the ~~Department of Education~~ **Division of Elementary and Secondary Education** and by the school district and shall be available on the department's **division's** website.

SECTION 1249. Arkansas Code § 6-15-2105(b)(3)(A), concerning school rating systems, school ratings and performance category level measurement, and publication, is amended to read as follows:

<< AR ST § 6-15-2105 >>

(A) "A" for schools that are rated "exemplary" by the department **Division of Elementary and Secondary Education**, Level 5 under § 6-15-2102 [repealed], or Level 5 under § 6-15-2103;

SECTION 1250. Arkansas Code § 6-15-2107(c)(2), concerning the Arkansas School Recognition Program, is amended to read as follows:

<< AR ST § 6-15-2107 >>

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may disburse available performance-based funding appropriated by the General Assembly on a pro rata basis.

SECTION 1251. Arkansas Code § 6-15-2108(d), concerning school rating systems, is amended to read as follows:

<< AR ST § 6-15-2108 >>

(d) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promulgate rules to implement this section.

SECTION 1252. The introductory language of Arkansas Code § 6-15-2202(c), concerning access to public school information on school improvement plans, is amended to read as follows:

<< AR ST § 6-15-2202 >>

(c) Not less than annually, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall monitor compliance with the requirements of this section when the department **division**:

SECTION 1253. Arkansas Code § 6-15-2202(d)(1), concerning access to public school information on school improvement plans, is amended to read as follows:

<< AR ST § 6-15-2202 >>

(d)(1) The department **division** shall report a failure to comply with this section to the State Board of Education.

SECTION 1254. Arkansas Code § 6-15-2301(a)(2), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6-15-2301 >>

(2)(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Arkansas Legislative Audit are directed to develop a system for reviewing the financial management practices of school districts.

(B) In this system, the Arkansas Legislative Audit shall assist the ~~department~~ **Division of Elementary and Secondary Education** in examining school district operations to determine whether they meet “best financial management code practices”.

SECTION 1255. Arkansas Code § 6–15–2301(b)(1) and (2), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, are amended to read as follows:

<< AR ST § 6–15–2301 >>

(b)(1) The best financial management practices adopted by the State Board of Education may be updated periodically after consultation with the Legislative Council, the Governor, the ~~department~~ **Division of Elementary and Secondary Education**, school districts, and the Arkansas Legislative Audit.

(2) The ~~department~~ **Division of Elementary and Secondary Education** shall submit to the state board for review and possible adoption proposed revisions to the best financial management practices adopted by the state board and reviewed by the Legislative Council.

SECTION 1256. Arkansas Code § 6–15–2301(c)(1), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6–15–2301 >>

(c)(1) The ~~department~~ **Division of Elementary and Secondary Education** shall conduct the reviews or contract with a private firm selected through a formal request-for-proposal process to perform the review.

SECTION 1257. Arkansas Code § 6–15–2301(d), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6–15–2301 >>

(d) The state board shall consult with the ~~department~~ **Division of Elementary and Secondary Education** throughout the best practices review process to ensure that the technical expertise of the ~~department~~ **Division of Elementary and Secondary Education** benefits the review process and supports the school districts before, during, and after the review.

SECTION 1258. Arkansas Code § 6–15–2301(e)(3)(A), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6–15–2301 >>

(3)(A) The ~~department~~ **Division of Elementary and Secondary Education** shall prepare annual reports of the results of the best financial management practices reviews and shall post to its website the school and the school district financial grades.

SECTION 1259. Arkansas Code § 6–15–2301(g), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6–15–2301 >>

(g) Subject to funding by the General Assembly, the department **Division of Elementary and Secondary Education** may contract with a private firm to conduct best financial management practices reviews.

SECTION 1260. Arkansas Code § 6–15–2301(h), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6–15–2301 >>

(h)(1) Reviews shall be conducted by Arkansas Legislative Audit, the department **Division of Elementary and Secondary Education**, or the consultant.

(2)(A) Funds may be used for the cost of reviews by Arkansas Legislative Audit and private consultants contracted by the state board.

(B) Costs may include professional services, travel expenses of the department **Division of Elementary and Secondary Education** and of the staff of Arkansas Legislative Audit, and any other necessary expenses incurred as part of a best financial management practices review and as preapproved by the department **Division of Elementary and Secondary Education**.

SECTION 1261. Arkansas Code § 6–15–2301(i)(1), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6–15–2301 >>

(i)(1) A school district shall complete a self-assessment instrument provided by the department **Division of Elementary and Secondary Education** that indicates the school district's evaluation of its performance on each best practice.

SECTION 1262. Arkansas Code § 6–15–2301(i)(2)(B), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6–15–2301 >>

(B) The completed self-assessment instrument and supporting documentation shall be submitted to the department **Division of Elementary and Secondary Education** no later than the date of commencement of the review as notified by the department **Division of Elementary and Secondary Education**.

SECTION 1263. Arkansas Code § 6–15–2301(j), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6–15–2301 >>

(j) During the review, the department **Division of Elementary and Secondary Education** or the consultant conducting the review, if any, shall hold at least one (1) advertised public forum as part of the review in order to explain the best financial

management practices review process and obtain input from students, parents or guardians, the business community, and other school district residents regarding their concerns about the operations and management of the school district.

SECTION 1264. Arkansas Code § 6-15-2301(k)(2)(A), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6-15-2301 >>

(2)(A) The department **Division of Elementary and Secondary Education** shall issue a final report to the Legislative Council regarding the school district's use of the best financial management practices and cost savings recommendations within sixty (60) days after completing the reviews.

SECTION 1265. Arkansas Code § 6-15-2301(l)(2), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6-15-2301 >>

(2)(A) Within sixty (60) days after the receipt of the final report, the school district board of directors shall notify the state board and the department **Division of Elementary and Secondary Education** in writing of the implementation schedule for the action plan.

(B) The department **Division of Elementary and Secondary Education** shall contact the school district, assess the situation, and offer technical assistance, if needed.

SECTION 1266. Arkansas Code § 6-15-2301(m)(1), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6-15-2301 >>

(1) No later than six (6) months after receipt of the final best financial practices report, the school district board of directors shall submit an initial status report to the Governor, the state board, Arkansas Legislative Audit, the department **Division of Elementary and Secondary Education**, and the Legislative Council on progress made toward implementing the action plan and whether changes have occurred in other areas of operation that would affect compliance with the best practices; and

SECTION 1267. Arkansas Code § 6-15-2301(m)(2)(A), concerning best financial management practices for school districts, standards, reviews, and designation of school districts, is amended to read as follows:

<< AR ST § 6-15-2301 >>

(2)(A) A second status report shall be submitted by the school district to the Governor, the state board, Arkansas Legislative Audit, the department **Division of Elementary and Secondary Education**, and the Legislative Council no later than six (6) months after submission of the initial report, and every six (6) months thereafter, until status reports are not required.

SECTION 1268. Arkansas Code § 6-15-2302(b)(1), concerning general business managers, is amended to read as follows:

<< AR ST § 6-15-2302 >>

(b)(1) On and after July 31, 2007, a general business manager for a public school district shall meet the minimum qualifications established by rule of the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1269. Arkansas Code § 6-15-2401(a)(1), concerning review of Arkansas Placement Status Reports and reports of students needing remediation, is amended to read as follows:

<< AR ST § 6-15-2401 >>

(a)(1) Representatives from the ~~Department~~ **Division** of Higher Education and the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall meet with the respective chairs of the Senate Committee on Education and the House Committee on Education or their designees along with the selected superintendents, high school principals, and high school counselors one (1) time every biennium to review the Arkansas Placement Status Reports to determine whether any revisions in the format of the reports, the information that is reported, or the reporting process need to be made.

SECTION 1270. Arkansas Code § 6-15-2501(c),³ concerning the creation of the Division of Education Renewal Zones, is amended to read as follows:

<< AR ST § 6-15-2501 >>

(b) The ~~division~~ **Division of Education Renewal Zones** shall be under the supervision of the State Board of Education.

SECTION 1271. Arkansas Code § 6-15-2501(b)(3), concerning the creation of the Division of Education Renewal Zones, is amended to read as follows:

<< AR ST § 6-15-2501 >>

(3) The Director of the ~~Department~~ **Division** of Higher Education shall assign one (1) individual from the staff of the ~~Department~~ **Division** of Higher Education to serve as a liaison to the ~~division~~ **Division of Education Renewal Zones**.

SECTION 1272. Arkansas Code § 6-15-2501(d) and (e), concerning the creation of the Division of Education Renewal Zones, is amended to read as follows:

<< AR ST § 6-15-2501 >>

(d) The ~~division~~ **Division of Education Renewal Zones** shall be responsible for developing guidelines for the approval of education renewal zone strategic plans and for the evaluation and reporting of education renewal zone activities.

(e) The ~~division~~ **Division of Education Renewal Zones** shall approve any education renewal zone strategic plan prior to the disbursement or annual renewal of funds to participating institutions of higher education.

SECTION 1273. Arkansas Code § 6-15-2502(d)(1)(C)(ii), concerning the establishment, purpose, and organization of education renewal zones, is amended to read as follows:

<< AR ST § 6-15-2502 >>

(ii) The ~~division~~ **Division of Education Renewal Zones** shall give preference to qualified four-year higher education institutions located within the education service cooperative area.

SECTION 1274. The introductory language of Arkansas Code § 6–15–2502(d)(1)(D), concerning the establishment, purpose, and organization of education renewal zones, is amended to read as follows:

<< AR ST § 6–15–2502 >>

(D) If there is no qualified four-year higher education institution located within the education service cooperative area, the ~~division~~ **Division of Education Renewal Zones** may select:

SECTION 1275. Arkansas Code § 6–15–2502(d)(3)(B)(ii)–(iv), concerning the establishment, purpose, and organization of education renewal zones, is amended to read as follows:

<< AR ST § 6–15–2502 >>

(ii) A public school designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as a school in school improvement or a school in a school district designated by the ~~department~~ **Division of Elementary and Secondary Education** as being in academic distress shall participate in an education renewal zone if requested to do so by the ~~department~~ **Division of Elementary and Secondary Education**, and the ~~division~~ **Division of Education Renewal Zones** working with the ~~department~~ **Division of Elementary and Secondary Education** shall establish priorities of establishing education renewal zones for those schools, which shall be contingent on the appropriation availability of funding for the renewal zones.

(iii) Acceptance or rejection of the application by a school for admittance to an education renewal zone shall be the responsibility of the ~~division~~ **Division of Education Renewal Zones**, with consultation from the higher education partner.

(iv) The ~~division~~ **Division of Education Renewal Zones** may include within an education renewal zone any school within the education service cooperative area provided that no more than ten (10) schools may participate in any single education renewal zone.

(v) The ~~division~~ **Division of Education Renewal Zones** may designate up to a maximum of three (3) education renewal zones within any single education service cooperative area.

SECTION 1276. The introductory language of Arkansas Code § 6–15–2502(d)(3)(C), concerning the establishment, purpose, and organization of education renewal zones, is amended to read as follows:

<< AR ST § 6–15–2502 >>

(C) In designating education renewal zones and selecting schools for participation in a particular zone, the ~~division~~ **Division of Education Renewal Zones** shall give priority to schools that meet one (1) or more of the following criteria:

SECTION 1277. Arkansas Code § 6-15-2502(d)(3)(C)(ii), concerning the establishment, purpose, and organization of education renewal zones, is amended to read as follows:

<< AR ST § 6-15-2502 >>

(ii) The school lies within a school district designated by the department **Division of Elementary and Secondary Education** as in academic distress or financial distress under the Arkansas Comprehensive Testing, Assessment, and Accountability Program;

SECTION 1278. Arkansas Code § 6-15-2502(d)(4)(C), concerning the establishment, purpose, and organization of education renewal zones, is amended to read as follows:

<< AR ST § 6-15-2502 >>

(C) The ~~division~~ **Division of Education Renewal Zones** may designate up to a maximum of three (3) education renewal zones within any single education service cooperative area.

SECTION 1279. Arkansas Code § 6-15-2502(d)(5)(B), concerning the establishment, purpose, and organization of education renewal zones, is amended to read as follows:

<< AR ST § 6-15-2502 >>

(B) Any two-year community or technical college, technical support organization, or other entity may participate in the education renewal zone at the discretion of the ~~division~~ **Division of Education Renewal Zones** and in collaboration with a designated higher education partner and a designated education service cooperative.

SECTION 1280. Arkansas Code § 6-15-2504(d)(2)(B), concerning the development, provisions, and implementation of school improvement plans, is amended to read as follows:

<< AR ST § 6-15-2504 >>

(B) Funds received by school districts for the ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account for professional development may be used to provide funding for the professional development requirements of the education renewal zone school district partners;

SECTION 1281. Arkansas Code § 6-15-2606(c)(1)(B), concerning a Rewarding Excellence in Achievement plan, is amended to read as follows:

<< AR ST § 6-15-2606 >>

(B) Locally selected and ~~Department of Education~~ **Division of Elementary and Secondary Education**-approved standardized assessment outcomes for students in each teacher's class may also be included;

SECTION 1282. Arkansas Code § 6-15-2606(c)(2)(B), concerning a Rewarding Excellence in Achievement plan, is amended to read as follows:

<< AR ST § 6-15-2606 >>

(B) Locally selected and ~~Department of Education~~-approved **Division of Elementary and Secondary Education-approved** standardized assessment outcomes may also be included; and

SECTION 1283. Arkansas Code § 6-15-2608(a), concerning the evaluation of participants in the Rewarding Excellence in Achievement plan, is amended to read as follows:

<< AR ST § 6-15-2608 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall commission an annual evaluation of the Rewarding Excellence in Achievement plan of each public school district and public charter school participating in the Rewarding Excellence in Achievement Program.

SECTION 1284. The introductory language of Arkansas Code § 6-15-2701(c), concerning the closing the achievement gap program, is amended to read as follows:

<< AR ST § 6-15-2701 >>

(c) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall:

SECTION 1285. The introductory language of Arkansas Code § 6-15-2701(d), concerning the closing the achievement gap program, is amended to read as follows:

<< AR ST § 6-15-2701 >>

(d) The ~~department~~ **division** shall identify the chronically underperforming schools with the largest achievement gaps among students and give to those chronically underperforming schools the ~~department's~~ **division's** highest priority for:

SECTION 1286. Arkansas Code § 6-15-2802(a), concerning rules for a school of innovation, is amended to read as follows:

<< AR ST § 6-15-2802 >>

(a) The Commissioner of **Elementary and Secondary** Education may approve a public school as a school of innovation for the purpose of transforming and improving the teaching and learning under § 6-15-2803.

SECTION 1287. Arkansas Code § 6–15–2802(c)(9), concerning rules for a school of innovation, is amended to read as follows:

<< AR ST § 6–15–2802 >>

(9) Reporting and oversight responsibility of the school of innovation and the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 1288. Arkansas Code § 6–15–2803(a), concerning school of innovation plans, is amended to read as follows:

<< AR ST § 6–15–2803 >>

(a) A school district shall submit its school of innovation plan, approved by the school district board of directors, to the Commissioner of **Elementary and Secondary Education** for approval to become a school of innovation.

SECTION 1289. Arkansas Code § 6–15–2804(a)(7)(A), concerning a school of innovation, is amended to read as follows:

<< AR ST § 6–15–2804 >>

(7)(A) Provide instructional time that meets or exceeds the instructional time requirement adopted by the state board unless granted an exception by the Commissioner of **Elementary and Secondary Education**.

SECTION 1290. Arkansas Code § 6–15–2804(a)(8), concerning a school of innovation, is amended to read as follows:

<< AR ST § 6–15–2804 >>

(8) Provide data requested by the ~~Department of Education~~ **Division of Elementary and Secondary Education** to generate reports;

SECTION 1291. Arkansas Code § 6–15–2904 is amended to read as follows:

<< AR ST § 6–15–2904 >>

6–15–2904. Responsibility of ~~Department of Education~~ Division of Elementary and Secondary Education.

The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall develop and implement a comprehensive accountability system for Arkansas public schools and school districts that:

- (1) Establishes clear academic standards that are periodically reviewed and revised;
- (2) Maintains a statewide student assessment system that includes a variety of assessment measures;
- (3) Assesses whether all students have equitable access to excellent educators;
- (4) Establishes levels of support for public school districts; and
- (5) Maintains information systems composed of performance indicators that allow the ~~department~~ **division** to identify levels of public school district support and generate reports for the public.

SECTION 1292. Arkansas Code § 6–15–2906(a)(1), concerning academic standards established by the Department of Education, is amended to read as follows:

<< AR ST § 6–15–2906 >>

(a)(1) The Department of Education **Division of Elementary and Secondary Education** shall establish academic standards that define what students shall know and be able to demonstrate in each content area.

SECTION 1293. Arkansas Code § 6–15–2906(b), concerning academic standards established by the Department of Education, is amended to read as follows:

<< AR ST § 6–15–2906 >>

(b) The department **division** shall establish a schedule for periodic review and revision of academic standards to ensure that Arkansas academic standards are rigorous and prepare students for college, career, and community engagement.

SECTION 1294. The introductory language of Arkansas Code § 6–15–2906(c), concerning academic standards established by the Department of Education, is amended to read as follows:

<< AR ST § 6–15–2906 >>

(c) The department **division** shall include, at a minimum, the following elements in the periodic review and revision of Arkansas academic standards:

SECTION 1295. The introductory language of Arkansas Code § 6–15–2907(a), concerning the statewide student assessment system, is amended to read as follows:

<< AR ST § 6–15–2907 >>

(a) The Department of Education **Division of Elementary and Secondary Education** shall implement a statewide student assessment system to be administered by Arkansas public schools on a schedule determined by the State Board of Education that includes the following components:

SECTION 1296. Arkansas Code § 6–15–2907(b), concerning the statewide student assessment system, is amended to read as follows:

<< AR ST § 6–15–2907 >>

(b) At the direction of the state board, the department **division** shall cause assessment instruments to be administered at additional grade levels as necessary to measure educational achievement in the public schools of this state.

SECTION 1297. The introductory language of Arkansas Code § 6–15–2907(h), concerning the statewide student assessment system, is amended to read as follows:

<< AR ST § 6–15–2907 >>

(h) The department **division** shall provide for statewide student assessments that are:

SECTION 1298. Arkansas Code § 6–15–2908(a)(1), concerning the analyses of the statewide student assessment data, is amended to read as follows:

<< AR ST § 6–15–2908 >>

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide analyses of data produced by statewide student assessments.

SECTION 1299. The introductory language of Arkansas Code § 6–15–2908(a)(3), concerning the analyses of the statewide student assessment data, is amended to read as follows:

<< AR ST § 6–15–2908 >>

(3) The model used by the ~~department~~ **division** shall:

SECTION 1300. Arkansas Code § 6–15–2909(a)(2), concerning the public availability of test instruments and scores, is amended to read as follows:

<< AR ST § 6–15–2909 >>

(2) Disseminated or otherwise made available to the public by a member of the State Board of Education, an employee of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, a member of the board of directors of a school district, an employee of a school district, or any other person, except as permitted under the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, as it existed on January 1, 2017.

SECTION 1301. Arkansas Code § 6–15–2910(a), concerning recommended student performance levels by the Department of Education, is amended to read as follows:

<< AR ST § 6–15–2910 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall recommend student performance levels for the statewide student assessment system to the State Board of Education for its approval.

SECTION 1302. Arkansas Code § 6–15–2911(a)(1), concerning student-focused learning systems, is amended to read as follows:

<< AR ST § 6–15–2911 >>

(a)(1) ~~Beginning with the 2017–2018 school year, the Department of Education~~ **The Division of Elementary and Secondary Education** shall collaborate with public school districts to transition to a student-focused learning system to support success for all students.

SECTION 1303. Arkansas Code § 6–15–2912(c)(1), concerning educator excellence, is amended to read as follows:

<< AR ST § 6–15–2912 >>

(1) Report the data needed by the ~~Department of Education~~ **Division of Elementary and Secondary Education** to identify and evaluate educator effectiveness in accordance with state and federal reporting requirements; and

SECTION 1304. Arkansas Code § 6–15–2913(a)(1)(A)(i), concerning levels of school district support, is amended to read as follows:

<< AR ST § 6–15–2913 >>

(A)(i) The process for determining the differentiated levels of support that the ~~Department of Education~~ **Division of Elementary and Secondary Education** will provide to school districts.

SECTION 1305. Arkansas Code § 6–15–2914(d)(1), concerning school-level improvement plans and school district support plans, is amended to read as follows:

<< AR ST § 6–15–2914 >>

(d)(1) Annually by September 1, a public school district receiving Level 2 — Collaborative, Level 3 — Coordinated, Level 4 — Directed, or Level 5 — Intensive support shall submit to the ~~Department of Education~~ **Division of Elementary and Secondary Education** a public school district support plan in accordance with rules of the State Board of Education.

SECTION 1306. Arkansas Code § 6–15–2915(b), concerning school district classification as in need of Level 5 — intensive support and student transfer eligibility, is amended to read as follows:

<< AR ST § 6–15–2915 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall notify in writing the public school district superintendent and the president of the public school district board of directors of the recommendation to the state board for classification as in need of Level 5 — Intensive support.

SECTION 1307. Arkansas Code § 6–15–2915(c)(1), concerning school district classification as in need of Level 5 — intensive support and and student transfer eligibility, is amended to read as follows:

<< AR ST § 6–15–2915 >>

(c)(1) A public school district recommended for classification as in need of Level 5 — Intensive support may appeal to the state board by filing a written appeal with the Commissioner of **Elementary and Secondary Education** in accordance with the procedure established in the rules of the state board.

SECTION 1308. Arkansas Code § 6–15–2916(1), concerning the State Board of Education's authority over a public school district classified as in need of Level 5 — intensive support, is amended to read as follows:

<< AR ST § 6–15–2916 >>

(1) Direct the Commissioner of **Elementary and Secondary Education** to conduct an analysis of all school district systems and make recommendations for action by the state board; and

SECTION 1309. Arkansas Code § 6–15–2917(c)(1), concerning a public school district under the authority of the State Board of Education, is amended to read as follows:

<< AR ST § 6-15-2917 >>

(c)(1) If the public school district has not demonstrated to the state board and the ~~Department of Education~~ **Division of Elementary and Secondary Education** that the public school district meets the criteria to exit Level 5 — Intensive support within five (5) years of the assumption of authority, the state board shall annex, consolidate, or reconstitute the public school district under § 6-13-1401 et seq. and this subchapter.

SECTION 1310. The introductory language of Arkansas Code § 6-15-2918(a), concerning comprehensive information systems to be established by the Department of Education, is amended to read as follows:

<< AR ST § 6-15-2918 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall:

SECTION 1311. Arkansas Code § 6-15-2918(b) and (c), concerning comprehensive information systems to be established by the Department of Education, are amended to read as follows:

<< AR ST § 6-15-2918 >>

(b) The ~~department~~ **division** shall provide electronic resources for educators to support and augment student achievement, efficiency, and educational initiatives.

(c) The ~~department~~ **division** may contract with providers to collect, maintain, and analyze data and prepare reports.

SECTION 1312. Arkansas Code § 6-16-104(b), concerning the basic language of instruction for public school branches, is amended to read as follows:

<< AR ST § 6-16-104 >>

(b) It shall be the duty of the Commissioner of **Elementary and Secondary Education**, the Director of the ~~Department~~ **Division** of Career and Technical Education, and city superintendents to see that the provisions of this section are carried out.

SECTION 1313. Arkansas Code § 6-16-122(c), concerning American heritage items in classrooms, is amended to read as follows:

<< AR ST § 6-16-122 >>

(c) A copy of this section shall be distributed to the superintendent of each school district in the state by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, whereupon the superintendents then shall provide a copy to each teacher and each school district board member.

SECTION 1314. Arkansas Code § 6-16-124(b)(3)(A), concerning the required teaching of Arkansas history as a social studies course, is amended to read as follows:

<< AR ST § 6-16-124 >>

(3)(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall, in advance of the 2018–2019 school year, develop materials or units relating to Arkansas and the American Civil War.

SECTION 1315. Arkansas Code § 6–16–126(b)(1)(A), concerning food handling safety and instructional materials, is amended to read as follows:

<< AR ST § 6–16–126 >>

(b)(1)(A) The Commissioner of **Elementary and Secondary** Education shall provide a clearinghouse for instructional materials on food handling safety.

SECTION 1316. Arkansas Code § 6–16–126(b)(2), concerning food handling safety and instructional materials, is amended to read as follows:

<< AR ST § 6–16–126 >>

(2) The commissioner shall encourage collaborative efforts between the ~~Department of Education~~ **Division of Elementary and Secondary Education** and other agencies and organizations in accessing developmentally appropriate instructional materials on food handling safety.

SECTION 1317. Arkansas Code § 6–16–127(c), concerning the creation of the Arkansas Foreign Language Teacher Training Program, is amended to read as follows:

<< AR ST § 6–16–127 >>

(c) The ~~Department~~ **Division** of Higher Education, in consultation with the ~~Department of Education~~ **Division of Elementary and Secondary Education** and representatives of the state's foreign language educators, shall develop a request-for-proposals process whereby Arkansas institutions of higher education with teacher training programs may apply for funding, not to exceed three (3) years, to enhance their foreign language teacher training program.

SECTION 1318. Arkansas Code § 6–16–127(d)(2)–(4), concerning the creation of the Arkansas Foreign Language Teacher Training Program, are amended to read as follows:

<< AR ST § 6–16–127 >>

(2) All donations, grants, and appropriations received shall be accounted for by the ~~Department~~ **Division** of Higher Education.

(3) The Director of the ~~Department~~ **Division** of Higher Education may solicit and receive donations and grants for the purpose of making awards.

(4) The provisions of this section and § 6–16–128 shall be contingent on the appropriation and funding necessary to allow the ~~Department~~ **Division** of Higher Education to carry out the duties assigned it in this section and § 6–16–128.

SECTION 1319. Arkansas Code § 6–16–128(b) and (c), concerning the Arkansas Early Grades Foreign Language Pilot Program, are amended to read as follows:

<< AR ST § 6–16–128 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education**, in consultation with the ~~Department~~ **Division** of Higher Education and representatives of the state's foreign language educators, shall develop a request-for-proposals process whereby public schools serving students in kindergarten through grade six (K–6) may apply for funding, not to exceed three (3) years, to establish a foreign language training program, with an emphasis on Spanish.

(c)(1) The awards granted under the provisions of this section and § 6–16–127 may be funded by donations, grants, or legislative appropriation.

(2) The Commissioner of **Elementary and Secondary** Education may solicit and receive donations and grants for the purpose of making awards.

(3) All donations, grants, and appropriations received shall be accounted for by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(4) The provisions of this section and § 6–16–127 shall be contingent on the appropriation and funding necessary to allow the ~~Department of Education~~ **Division of Elementary and Secondary Education** to carry out the duties assigned to it in this section and § 6–16–127.

SECTION 1320. Arkansas Code § 6–16–130(a)(4)(A), concerning the required teaching of visual art or music in elementary school, is amended to read as follows:

<< AR ST § 6–16–130 >>

(4)(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide a stipend of not less than one hundred dollars (\$100) per class to each school for the purchase of necessary supplies or equipment for the classes required by this subsection.

SECTION 1321. Arkansas Code § 6–16–135(a), concerning personal and family finance standards to be developed by the Department of Education in consultation with the Department of Career Education, is amended to read as follows:

<< AR ST § 6–16–135 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education**, in consultation with the ~~Department~~ **Division** of Career **and Technical** Education and subject to the approval of the State Board of Education, shall develop personal and family finance standards.

SECTION 1322. Arkansas Code § 6–16–136(b)(1)(A), concerning the statewide coordination of distance learning, is amended to read as follows:

<< AR ST § 6–16–136 >>

(b)(1)(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promulgate the rules necessary for efficient scheduling of courses offered by public schools through distance learning technologies.

SECTION 1323. Arkansas Code § 6–16–137(a)(1), concerning the definition of “content standards” under the requirements for a physical education credit for physical activity courses, is amended to read as follows:

<< AR ST § 6–16–137 >>

(1) “Content standards” means those curriculum course content standards identified and set out in the ~~Department of Education~~ **Division of Elementary and Secondary Education** curriculum frameworks;

SECTION 1324. Arkansas Code § 6–16–137(a)(4), concerning the definition of “statement of assurance” under the requirements for a physical education credit for physical activity courses, is amended to read as follows:

<< AR ST § 6–16–137 >>

(4) “Statement of assurance” means a written statement to be filed by the superintendent or chief academic officer with the ~~department~~ **Division of Elementary and Secondary Education** by October 1 of each school year that ensures that the organized physical activity course is in compliance with the physical education course content standards and curriculum frameworks as required pursuant to § 6–15–1505 and subdivision (b)(2) of this section.

SECTION 1325. The introductory language of Arkansas Code § 6–16–137(b)(2), concerning the requirements for a physical education credit for physical activity courses, is amended to read as follows:

<< AR ST § 6–16–137 >>

(2) The organized physical activity course is verified by the superintendent of the school district or the chief administrative officer of an open-enrollment charter school who files a written statement of assurance with the ~~department~~ **division** by October 1 of the school year as required under § 6–15–1505 stating that:

SECTION 1326. Arkansas Code § 6–16–137(f) and (g), concerning the requirements for a physical education credit for physical activity courses, are amended to read as follows:

<< AR ST § 6–16–137 >>

(f)(1) If it is determined by the ~~department~~ **division** that any organized physical activity course allowed to be used for physical education credit by a student does not meet the ~~department's~~ **division's** physical education course content standards and curriculum frameworks, as required under this section, the school district or open-enrollment charter school may be cited or placed in probationary violation of the Standards for Accreditation of Arkansas Public Schools and School Districts under The Quality Education Act of 2003, § 6–15–201 et seq.

(2) If it is determined by the ~~department~~ **division** that a superintendent or chief academic officer or any other licensed personnel have knowingly provided false or misleading information in the statement of assurance required under this section, the state board may take appropriate action on the license of that individual pursuant to § 6–17–410.

(g) The ~~department~~ **division** is authorized to monitor, review documentation, request information, or require additional reports from public schools, school districts, open-enrollment charter schools, or school personnel to enforce compliance with the requirements of this section.

SECTION 1327. Arkansas Code § 6–16–140(b) and (c), concerning vocational or technical course awards, are amended to read as follows:

<< AR ST § 6–16–140 >>

(b) The ~~Department~~ **Division** of Career **and Technical** Education in cooperation with the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall determine and issue the appropriate award to a student upon successful completion of the vocational or technical career pathway or program of study.

(c) The ~~Department~~ **Division** of Career **and Technical** Education is authorized to promulgate rules as necessary for the implementation of this section.

SECTION 1328. Arkansas Code § 6–16–144(b), concerning the Arts–Enriched Curriculum Program, is amended to read as follows:

<< AR ST § 6–16–144 >>

(b) There is established the Arts–Enriched Curriculum Program, a five-year pilot program funded through grants administered by the ~~Department of Education~~ **Division of Elementary and Secondary Education** to implement an arts-enriched curriculum, training, and research at fifteen (15) schools over the five-year period.

SECTION 1329. Arkansas Code § 6–16–144(f)(2)(B), concerning the Arts–Enriched Curriculum Program, is amended to read as follows:

<< AR ST § 6–16–144 >>

(B) ~~Department of Education~~ **Division of Elementary and Secondary Education.**

SECTION 1330. Arkansas Code § 6–16–203 is amended to read as follows:

<< AR ST § 6–16–203 >>

6–16–203. Readiness testing.

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall develop guidelines for school districts to perform readiness testing for children who are entering kindergarten.

(b)(1) After the ~~department~~ **division** develops guidelines under subsection (a) of this section, each school district in the state shall conduct individual readiness testing on each child entering kindergarten and provide the results of the testing to the child's parents in a timely manner before the child's first day of school.

(2) The results of the testing that are provided to parents shall indicate in clear, understandable terminology the child's readiness for entering kindergarten.

SECTION 1331. Arkansas Code § 6–16–305(b)–(e), concerning funds for research and demonstration centers and consultative services, are amended to read as follows:

<< AR ST § 6-16-305 >>

(b) In such instances, however, the funds shall be appropriated for the use of the State Board of Education and shall be subject to cooperative agreements in writing between the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the sponsoring teacher training institutions or school districts.

(c) Available funds may be used by the ~~department~~ **Division of Elementary and Secondary Education** for the purpose of securing consultative services.

(d)(1) In that eventuality, the ~~department~~ **Division of Elementary and Secondary Education** shall certify that the expenditures are reasonable and are within customary amounts paid for the services.

(2) An annual report of the expenditures shall be filed with the Department of Finance and Administration, the Legislative Council, and the Legislative Joint Auditing Committee.

(e) Moreover, full-time state employees shall not be reimbursed for consultative services but may be reimbursed for expenses incurred in participating in these programs in instances where their services have been authorized by the Commissioner of **Elementary and Secondary** Education or the Director of the ~~Department~~ **Division** of Career **and Technical** Education.

SECTION 1332. Arkansas Code § 6-16-310(a), concerning approval and funding for early childhood and kindergarten programs, is amended to read as follows:

<< AR ST § 6-16-310 >>

(a) The expenditure of state or local tax funds, except as provided in § 6-16-305, shall be limited to program applications approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education** for children five (5) years of age as defined elsewhere in this subchapter.

SECTION 1333. Arkansas Code § 6-16-601(a)(4)(B), concerning the authority of postsecondary preparatory programs, is amended to read as follows:

<< AR ST § 6-16-601 >>

(B) Designated by the ~~Department~~ **Division** of Higher Education; and

SECTION 1334. Arkansas Code § 6-16-601(c), concerning the definition of “placement test” under the authority of postsecondary preparatory programs, is amended to read as follows:

<< AR ST § 6-16-601 >>

(c) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall:

(1) Approve content guides for postsecondary preparatory programs with assistance from the ~~Department~~ **Division** of Higher Education; and

(2)(A) Approve or disapprove the annual application of a postsecondary preparatory program after:

(i) Reviewing evidence of the postsecondary preparatory program's performance and success; and

(ii) Giving priority for approval and funding to a postsecondary preparatory program operated by a partnership between a school district and an institution of higher education.

(B) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall not approve an application under this subdivision (c)(2) unless the postsecondary preparatory program meets the criteria under this subchapter and established by State Board of Education rules.

SECTION 1335. The introductory language of Arkansas Code § 6-16-601(d)(1), concerning the authority of postsecondary preparatory programs, is amended to read as follows:

<< AR ST § 6-16-601 >>

(d)(1) In collaboration with the ~~Department~~ **Division** of Higher Education, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall collect and analyze the following data from postsecondary preparatory programs:

SECTION 1336. Arkansas Code § 6-16-601(d)(1)(I), concerning the authority of postsecondary preparatory programs, is amended to read as follows:

<< AR ST § 6-16-601 >>

(I) The amount of funding the ~~Department of Education~~ **Division of Elementary and Secondary Education** distributed to each postsecondary preparatory program.

SECTION 1337. The introductory language of Arkansas Code § 6-16-601(d)(2), concerning the authority of postsecondary preparatory programs, is amended to read as follows:

<< AR ST § 6-16-601 >>

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall:

SECTION 1338. Arkansas Code § 6-16-602(a)(4)(A), concerning postsecondary preparatory programs, is amended to read as follows:

<< AR ST § 6-16-602 >>

(4)(A) Use instructors with appropriate content knowledge and specialized training developed by the ~~Department of Education~~ **Division of Elementary and Secondary Education** for instructors of developmental education.

SECTION 1339. Arkansas Code § 6-16-602(b), concerning postsecondary preparatory programs, is amended to read as follows:

<< AR ST § 6-16-602 >>

(b) A postsecondary preparatory program shall not receive funding under this subchapter unless the postsecondary preparatory program files an annual application with the department **Division of Elementary and Secondary Education** and the application is approved under § 6-16-601.

SECTION 1340. Arkansas Code § 6-16-603(b)(3)(B), concerning local programs and placement tests, is amended to read as follows:

<< AR ST § 6-16-603 >>

(B) The Department of Education **Division of Elementary and Secondary Education** and the Department **Division of Higher Education** as appropriate courses for college and career readiness.

SECTION 1341. The introductory language of Arkansas Code § 6-16-604(a)(3), concerning student enrollment, is amended to read as follows:

<< AR ST § 6-16-604 >>

(3) If space and funding are available after all eligible students who applied to attend a postsecondary preparatory program are enrolled, the Department of Education **Division of Elementary and Secondary Education** may permit a public school student to enroll in a postsecondary preparatory program if the student:

SECTION 1342. Arkansas Code § 6-16-604(c), concerning student enrollment, is amended to read as follows:

<< AR ST § 6-16-604 >>

(c) The opportunity to participate in a postsecondary preparatory program under this subchapter shall not be interpreted as mandating the department **Division of Elementary and Secondary Education** to fund postsecondary preparatory programs at a cost in excess of the funds appropriated and funded in the Public School Fund for this purpose.

SECTION 1343. Arkansas Code § 6-16-605(a)(2), concerning testing and acceptance of test scores, is amended to read as follows:

<< AR ST § 6-16-605 >>

(2) Completes a postsecondary preparatory program successfully and in the student's senior year of high school enrolls in a mathematics or English language arts course that is designated by the Department of Education **Division of Elementary and Secondary Education** and the Department **Division of Higher Education** as an appropriate course for college and career readiness.

SECTION 1344. Arkansas Code § 6-16-704 is amended to read as follows:

<< AR ST § 6-16-704 >>

6-16-704. School-year remediation program.

Those schools electing not to offer a summer school program shall offer a Department of Education-approved **Division of Elementary and Secondary Education-approved** remediation program during the regular school year to students in kindergarten through grade three (K-3) not performing at grade level.

SECTION 1345. Arkansas Code § 6-16-705 is amended to read as follows:

<< AR ST § 6-16-705 >>

6-16-705. Summer school remediation program.

Students in kindergarten through grade three (K-3) not performing at grade level during the regular school year shall participate in a ~~Department of Education-approved~~ **Division of Elementary and Secondary Education-approved** remediation program or a summer school remediation program to be eligible for promotion to the next grade.

SECTION 1346. Arkansas Code § 6-16-803(4) and (5), concerning the definitions of “commissioner” and “department” under the Arkansas Advanced Placement and International Baccalaureate Diploma Incentive Program Act of 1995, are repealed.

<< AR ST § 6-16-803 >>

(4) “Commissioner” means the Commissioner of Education;

(5) “Department” means the Department of Education;

SECTION 1347. Arkansas Code § 6-16-804(a) and (b), concerning the establishment, subsidies, rules, and regulations of the Arkansas Advanced Placement and International Baccalaureate Diploma Incentive Program, are amended to read as follows:

<< AR ST § 6-16-804 >>

(a) The Arkansas Advanced Placement and International Baccalaureate Diploma Incentive Program is hereby established, to be administered by the Commissioner of **Elementary and Secondary** Education.

(b) Contingent upon legislative appropriations and based on criteria established by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, schools participating in the program may be awarded a one-time equipment and instructional materials grant for providing an advanced placement course or a course offered under the International Baccalaureate Diploma Programme.

SECTION 1348. Arkansas Code § 6-16-805(b) and (c), concerning funding of the Arkansas Advanced Placement and International Baccalaureate Diploma Incentive Program, are amended to read as follows:

<< AR ST § 6-16-805 >>

(b) All donations, grants, and appropriations received shall be accounted for by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(c) The Commissioner of **Elementary and Secondary** Education may solicit and receive donations and grants for the purpose of making awards.

SECTION 1349. Arkansas Code § 6–16–901(a), concerning legislative findings regarding the evaluation of instructional programs, is amended to read as follows:

<< AR ST § 6–16–901 >>

(a) The General Assembly finds and acknowledges that a system of evaluation is needed to justify expenditure of state resources on effective instructional programs and to eliminate state funding of ineffective instructional programs. The General Assembly further finds that an evaluation system to examine instructional programs administered by the Department of Education **Division of Elementary and Secondary Education** must be implemented by the Commissioner of **Elementary and Secondary** Education in order to make a recommendation regarding continuation or termination of any mandated instructional program administered by the department **division**.

SECTION 1350. Arkansas Code § 6–16–901(b)(2), concerning legislative findings regarding the evaluation of instructional programs, is amended to read as follows:

<< AR ST § 6–16–901 >>

(2) Each instructional program administered by the department **division** shall be formally reviewed by a program performance audit every four (4) years to evaluate purposes, activities, duties, accomplishments, and resources required to implement the program.

SECTION 1351. The introductory language of Arkansas Code § 6–16–1004(d), concerning dating violence awareness, is amended to read as follows:

<< AR ST § 6–16–1004 >>

(d) The Department of Education **Division of Elementary and Secondary Education** shall annually provide a list of source materials available for school districts to use to teach a unit on dating violence awareness, including without limitation materials from:

SECTION 1352. Arkansas Code § 6–16–1202(2)(C), concerning the definition of “endorsed concurrent enrollment course” concerning Advanced Placement and endorsed concurrent enrollment, is amended to read as follows:

<< AR ST § 6–16–1202 >>

(C) Is listed in the Arkansas Course Transfer System of the Department **Division** of Higher Education;

SECTION 1353. Arkansas Code § 6–16–1204(a)(2), concerning the implementation of Advanced Placement and pre-Advanced Placement coursework, is amended to read as follows:

<< AR ST § 6–16–1204 >>

(2) The Department of Education **Division of Elementary and Secondary Education** shall approve all classes designated as pre-Advanced Placement courses.

SECTION 1354. The introductory language of Arkansas Code § 6–16–1403(b), concerning digital learning and approved provider list, is amended to read as follows:

<< AR ST § 6–16–1403 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall annually:

SECTION 1355. Arkansas Code § 6–16–1405(b), concerning digital learning providers, is amended to read as follows:

<< AR ST § 6–16–1405 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** or state board shall not require as a condition of approval of a digital learning provider that the digital learning provider limit the delivery of digital learning courses to public schools that require physical attendance at the public school to successfully complete the credit for which the digital learning course is provided.

SECTION 1356. Arkansas Code § 6–16–1504(b)(3), concerning school district participation in the Reengagement System and Differentiated Pathway to a High School Diploma Program, is amended to read as follows:

<< AR ST § 6–16–1504 >>

(3) Have an audit conducted to ensure that the participating program offered by the school district meets academic standards adopted by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1357. Arkansas Code § 6–16–1505(b)(3), concerning a model contract and model interlocal agreement for local school districts, is amended to read as follows:

<< AR ST § 6–16–1505 >>

(3) The responsibilities for data collection and reporting, including student transcripts and data required by the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 1358. Arkansas Code § 6–17–102 is amended to read as follows:

<< AR ST § 6–17–102 >>

6–17–102. Emergency first aid personnel.

Every public elementary school and every public secondary school in the State of Arkansas shall have in its employ at least one (1) person who is certified by the American Red Cross or approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as qualified to administer emergency first aid and who shall be on the school grounds during normal school hours.

SECTION 1359. Arkansas Code § 6–17–106(b), concerning insult or abuse of teacher, is amended to read as follows:

<< AR ST § 6–17–106 >>

(b) Each school district shall report to the ~~Department of Education~~ **Division of Elementary and Secondary Education** any prosecutions within the school districts under this section.

SECTION 1360. Arkansas Code § 6-17-119(a)(2), concerning the definition of “classified employee” under alternative pay programs, is amended to read as follows:

<< AR ST § 6-17-119 >>

(2) “Classified employee” means a person employed by a public school district under a written annual contract who is not required to have a teaching license issued by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as a condition of employment;

SECTION 1361. Arkansas Code § 6-17-119(c), concerning alternative pay programs, is amended to read as follows:

<< AR ST § 6-17-119 >>

(c) The ~~department~~ **division** shall promulgate the rules necessary for the proper implementation of this section.

SECTION 1362. Arkansas Code § 6-17-201(d)(2), concerning personnel policy requirements for school districts, is amended to read as follows:

<< AR ST § 6-17-201 >>

(2)(A) By September 15 of each year, a school district shall provide the ~~Department of Education~~ **Division of Elementary and Secondary Education** with the website address at which its current personnel policies, including the salary schedule, may be found.

(B) The ~~department~~ **division** shall notify any school district that has not posted its policies on the school district website or provided the ~~department~~ **division** with the website address in accordance with this section.

SECTION 1363. Arkansas Code § 6-17-207, concerning school district accreditation, is amended to read as follows:

<< AR ST § 6-17-207 >>

6-17-207. Accreditation of school district.

No school district which does not have written personnel policies shall be accredited by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1364. The introductory language of Arkansas Code § 6-17-301(b)(1)(A), concerning the employment of licensed personnel by school district boards, is amended to read as follows:

<< AR ST § 6-17-301 >>

(A) Been placed on fiscal distress by the ~~Department of Education~~ **Division of Elementary and Secondary Education** because of:

SECTION 1365. Arkansas Code § 6-17-304(b) and (c), concerning the employment of teachers obligated to another school district and liability of hiring school districts, are amended to read as follows:

<< AR ST § 6-17-304 >>

(b) Either school district may petition the ~~Department of Education~~ **Division of Elementary and Secondary Education** to satisfy the liability by transferring such amount to the entitled school district from funds which the ~~department~~ **division** would have distributed to the liable school district.

(c) Upon receipt of such a petition, the ~~department~~ **division** shall determine the amount of the liability and satisfy the same by such transfer.

SECTION 1366. Arkansas Code § 6-17-305(a), concerning student teachers, is amended to read as follows:

<< AR ST § 6-17-305 >>

(a) Any primary or secondary school which has been accredited by the ~~Department of Education~~ **Division of Elementary and Secondary Education** may be entitled to assignments of student teachers from institutions of higher education in this state, irrespective of accreditation by any other agency, private or public.

SECTION 1367. Arkansas Code § 6-17-308(c), concerning moving expenses paid for by the State Board of Education, is amended to read as follows:

<< AR ST § 6-17-308 >>

(c) In order to be eligible for the reimbursement, the teacher must apply to the local school district, and the school district must obtain the prior approval from the ~~Department~~ **Division** of Higher Education for reimbursement before the relocation occurs.

SECTION 1368. Arkansas Code § 6-17-308(d)(1), concerning moving expenses paid for by the State Board of Education, is amended to read as follows:

<< AR ST § 6-17-308 >>

(d)(1) If the reimbursement is approved, the ~~department~~ **division** shall provide funds to the school district to reimburse the teacher an amount not to exceed one thousand dollars (\$1,000) for the documented actual expenses incurred in the course of relocating.

SECTION 1369. Arkansas Code § 6-17-309(a)(2)(B), concerning teaching licensure and waiver, is amended to read as follows:

<< AR ST § 6-17-309 >>

(B) Those persons approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education** to teach the grade level or subject matter of the class in the ~~Department of Education's~~ **Division of Elementary and Secondary Education's** distance learning program;

SECTION 1370. Arkansas Code § 6-17-309(a)(2)(C)(ii), concerning teaching licensure and waiver, is amended to read as follows:

<< AR ST § 6-17-309 >>

(ii) Meet the qualification requirements of that institution or the ~~Department~~ **Division** of Career **and Technical** Education; and

SECTION 1371. Arkansas Code § 6-17-310(a)(1), concerning the Office for the Purpose of Teacher Recruitment, is amended to read as follows:

<< AR ST § 6-17-310 >>

(a)(1) There is established within the ~~Department of Education~~ **Division of Elementary and Secondary Education** the Office for the Purpose of Teacher Recruitment for ensuring that the children of our state are taught by highly qualified professionals.

SECTION 1372. Arkansas Code § 6-17-310(b)(1), concerning the Office for the Purpose of Teacher Recruitment, is amended to read as follows:

<< AR ST § 6-17-310 >>

(1) Develop, disseminate, and distribute written materials and video productions on the importance of teaching as a profession, emphasizing the critical need for teachers in certain geographical areas of the state and the availability of financial scholarships to college students in exchange for service as a licensed teacher in the geographical critical-need area as identified by the ~~Department of Education~~ **Division of Elementary and Secondary Education** to assist the ~~Department~~ **Division** of Higher Education;

SECTION 1373. Arkansas Code § 6-17-310(c)(3)(B), concerning the Office for the Purpose of Teacher Recruitment, is amended to read as follows:

<< AR ST § 6-17-310 >>

(B) The ~~Department~~ **Division** of Higher Education may assist the office with the measure implemented under subdivision (c)(3)(A) of this section;

SECTION 1374. Arkansas Code § 6-17-310(c)(10), concerning the Office for the Purpose of Teacher Recruitment, is amended to read as follows:

<< AR ST § 6-17-310 >>

(10) Coordinate teacher recruitment activities with the ~~Department~~ **Division** of Higher Education;

SECTION 1375. The introductory language of Arkansas Code § 6-17-310(d), concerning the Office for the Purpose of Teacher Recruitment, is amended to read as follows:

<< AR ST § 6-17-310 >>

(d) The Department of Education **Division of Elementary and Secondary Education** may develop a supplemental funding program to be known as the “High-Priority Teacher Recruitment Program” that:

SECTION 1376. Arkansas Code § 6–17–310(e)(2), concerning the Office for the Purpose of Teacher Recruitment, is amended to read as follows:

<< AR ST § 6–17–310 >>

(2) Unacceptably wide achievement gaps as determined by the Department of Education **Division of Elementary and Secondary Education** in conjunction with the Commission on Closing the Achievement Gap in Arkansas.

SECTION 1377. Arkansas Code § 6–17–401(b)(2), concerning teacher's license requirement, is amended to read as follows:

<< AR ST § 6–17–401 >>

(2) Other documentation from the Office of Professional Licensure of the Department of Education **Division of Elementary and Secondary Education** authorizing employment as a teacher under the conditions set forth by the Department of Education **Division of Elementary and Secondary Education** in the documentation.

SECTION 1378. The introductory language of Arkansas Code § 6–17–402(b)(1)(A), concerning rules issued by the State Board of Education, is amended to read as follows:

<< AR ST § 6–17–402 >>

(A) Completes an educator preparation program approved by the Department of Education **Division of Elementary and Secondary Education**, which shall include without limitation:

SECTION 1379. Arkansas Code § 6–17–402(d)(2), concerning rules issued by the State Board of Education, is amended to read as follows:

<< AR ST § 6–17–402 >>

(2) The teacher preparation programs for licensure in this state shall report the results of the examinations to the department **division** upon request.

SECTION 1380. The introductory language of Arkansas Code § 6–17–403(c), concerning provisional licensure for teachers trained and licensed in other states, is amended to read as follows:

<< AR ST § 6–17–403 >>

(c) The state board shall issue a standard five-year teaching license to an individual who furnishes to the Department of Education **Division of Elementary and Secondary Education** proof of the following:

SECTION 1381. Arkansas Code § 6–17–409(a) and (b), concerning alternative educator preparation programs, are amended to read as follows:

<< AR ST § 6-17-409 >>

(a) As used in this section, “alternative educator preparation program” means a program of study approved by the Department of Education **Division of Elementary and Secondary Education** for candidates holding a bachelor's degree who are preparing for licensure as teachers and leaders in public schools in this state.

(b)(1) The State Board of Education may offer and operate an alternative educator preparation program.

(2)(A) The department **division** may provide grants of financial assistance to entities that train individuals seeking to obtain licensure through an alternative educator preparation program administered by the department **division**.

(B) The department **division** shall pay the grants from funds appropriated by the General Assembly to the department **division** for such purpose.

(C) The state board shall promulgate rules to determine eligibility for and amount of awards of the grants concerning the operation of the alternative educator preparation program authorized by this section and for such other purposes as may be necessary in carrying out the intent of this section.

(3) The department **division** may refuse to admit for enrollment in the alternative educator preparation program administered by the department **division** a person who has been dismissed from a teacher education program at an institution of higher education.

(4) If the state board requires an applicant for licensure through an alternative educator preparation program to complete one (1) or more additional college-level courses and the applicant has obtained a bachelor's degree, the required course or courses shall be available as an online course, a traditional face-to-face course, or a hybrid course that is part online instruction and part face-to-face instruction, as approved by the department **division**.

SECTION 1382. Arkansas Code § 6-17-409(g), concerning alternative educator preparation programs, is amended to read as follows:

<< AR ST § 6-17-409 >>

(g) Each applicant for a provisional license under this section shall successfully complete the criminal records checks and Child Maltreatment Central Registry check under § 6-17-410 before the department **division** may issue the license.

SECTION 1383. Arkansas Code § 6-17-410(a)(1)(A), concerning the application, renewal, revocation, suspension, and probation of teacher licensures, is amended to read as follows:

<< AR ST § 6-17-410 >>

(a)(1)(A)(i) An applicant for a license issued by the State Board of Education, an applicant for license renewal, and a preservice teacher shall apply to the Identification Bureau of the Department **Division** of Arkansas State Police for a statewide and nationwide criminal records check, to be conducted by the Department **Division** of Arkansas State Police and the Federal Bureau of Investigation.

SECTION 1384. Arkansas Code § 6-17-410(a)(1)(B), concerning the application, renewal, revocation, suspension, and probation of teacher licensures, is amended to read as follows:

<< AR ST § 6-17-410 >>

(B) The applicant shall sign a release of information to the ~~Department of Education~~ **Division of Elementary and Secondary Education** and shall be responsible for the payment of any fee associated with the criminal records check.

SECTION 1385. Arkansas Code § 6-17-410(a)(2) and (3), concerning the application, renewal, revocation, suspension, and probation of teacher licensures, are amended to read as follows:

<< AR ST § 6-17-410 >>

(2) Upon completion of the criminal records check, the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police shall forward all releasable information obtained concerning the applicant to the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(3)(A) An applicant for a license issued by the state board, an applicant for license renewal, and a preservice teacher are required to 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.

(B) The applicant shall sign a release of information to the ~~Department of Education~~ **Division of Elementary and Secondary Education** and is responsible for the payment of any fee associated with the Child Maltreatment Central Registry check.

(C) The Department of Human Services shall forward all releasable information concerning the applicant to the ~~Department of Education~~ **Division of Elementary and Secondary Education** upon completion of the Child Maltreatment Central Registry check.

(D) An institution of higher education is not required to bar a student from enrollment in an educator preparation program due to a true report in the Child Maltreatment Central Registry.

SECTION 1386. The introductory language of Arkansas Code § 6-17-410(b)(1), concerning the application, renewal, revocation, suspension, and probation of teacher licensures, is amended to read as follows:

<< AR ST § 6-17-410 >>

(b)(1) The state board may issue a six-month nonrenewable letter of provisional eligibility for licensure pending the results of the criminal records check and the Child Maltreatment Central Registry check. However, the Commissioner of **Elementary and Secondary** Education may extend the period of provisional eligibility to the end of that contract year if:

SECTION 1387. Arkansas Code § 6-17-410(b)(3), concerning the application, renewal, revocation, suspension, and probation of teacher licensures, is amended to read as follows:

<< AR ST § 6-17-410 >>

(3) If the ~~Department of Education~~ **Division of Elementary and Secondary Education** receives information from the Department of Human Services that the person holding a letter of provisional eligibility for teacher licensure has a true report in the Child Maltreatment Central Registry, the state board shall immediately revoke the provisional eligibility of the teacher licensure applicant.

SECTION 1388. Arkansas Code § 6-17-410(d)(A)(iii) and (iv), concerning the application, renewal, revocation, suspension, and probation of teacher licensures, are amended to read as follows:

<< AR ST § 6-17-410 >>

(iii) Intentionally compromising the validity or security of any student test or testing program administered by or required by the state board or the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

(iv) Having the completed examination test score of any testing program required by the state board for teacher licensure declared invalid by the testing program company and so reported to the ~~Department of Education~~ **Division of Elementary and Secondary Education** by the testing company;

SECTION 1389. Arkansas Code § 6-17-410(d)(1)(A)(viii), concerning the application, renewal, revocation, suspension, and probation of teacher licensures, is amended to read as follows:

<< AR ST § 6-17-410 >>

(viii) Knowingly submitting or providing false or misleading information or knowingly failing to submit or provide information requested or required by law to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the state board, or Arkansas Legislative Audit;

SECTION 1390. Arkansas Code § 6-17-410(f)(1)(A)(iv), concerning the application, renewal, revocation, suspension, and probation of teacher licensures, is amended to read as follows:

<< AR ST § 6-17-410 >>

(iv) An unlicensed individual admitted to a teacher preparation program approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1391. Arkansas Code § 6-17-410(f)(3)(A), concerning the application, renewal, revocation, suspension, and probation of teacher licensures, is amended to read as follows:

<< AR ST § 6-17-410 >>

(3)(A) An unlicensed individual who is disqualified from licensure by subsection (c) of this section may apply for a waiver prior to applying for licensure by submitting to the ~~Department of Education~~ **Division of Elementary and Secondary Education**:

(i) Written request for a hearing;

(ii) Proof of acceptance or enrollment in a teacher preparation program approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; and

(iii) Written recommendation from the teacher preparation program.

SECTION 1392. Arkansas Code § 6–17–410(g)(1)(D)–(F), concerning the application, renewal, arevocation, suspension, and probation of teacher licensures, are amended to read as follows:

<< AR ST § 6–17–410 >>

(D) Has intentionally compromised the validity or security of any student test or testing program administered or required by the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

(E) Has knowingly submitted falsified information or failed to submit information requested or required by law to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the state board, or Arkansas Legislative Audit;

(F) Has failed to establish or maintain the necessary requirements and standards set forth in Arkansas law or ~~Department of Education~~ **Division of Elementary and Secondary Education** rules for teacher licensure; or

SECTION 1393. Arkansas Code § 6–17–410(h)(1), concerning the application, renewal, revocation, suspension, and probation of teacher licensures, is amended to read as follows:

<< AR ST § 6–17–410 >>

(h)(1) Any information received by the ~~Department of Education~~ **Division of Elementary and Secondary Education** from the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police or the Department of Human Services pursuant to subsection (a) of this section shall not be available for examination except by the affected applicant for licensure or his or her duly authorized representative, and no record, file, or document shall be removed from the custody of the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1394. Arkansas Code § 6–17–410(j)(1) and (2), concerning the application, renewal, revocation, suspension, and probation of teacher licensures, are amended to read as follows:

<< AR ST § 6–17–410 >>

(1) “Preservice teacher” means an unlicensed individual who is accepted or enrolled in a teacher preparation program approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; and

(2) “Supervised clinical practice” means the placement of a preservice teacher by a teacher education program approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education** at the educational entity for the purpose of the student completing an internship or a student teaching experience required by the teacher education program.

SECTION 1395. Arkansas Code § 6–17–411 is amended to read as follows:

<< AR ST § 6-17-411 >>

6-17-411. Criminal records check as a condition for initial employment of licensed personnel — Definitions.

(a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section, the board of directors of an educational entity shall require as a condition for initial employment by the educational entity that any person holding a license issued by the State Board of Education and making application for employment authorize release to the ~~Department of Education~~

Division of Elementary and Secondary Education the results of:

(i) Statewide and nationwide criminal records checks by the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police, which conform to the applicable federal standards and include the taking of the applicant's fingerprints; and

(ii) The Child Maltreatment Central Registry check by the Department of Human Services.

(B)(i) The board of directors of a school district created by consolidation, annexation, or detachment may waive the requirements under subdivision (a)(1)(A) of this section for personnel who were employed by an affected district immediately before the annexation, consolidation, or detachment and who had a complete criminal background check conducted as a condition of the person's most recent employment with the affected district as required under this section.

(ii) As used in subdivision (a)(1)(B)(i) of this section, "affected district" means a school district that loses territory or students as a result of annexation, consolidation, or detachment.

(2) Unless the employing educational entity's board of directors has taken action to pay for the cost of criminal background checks or the Child Maltreatment Central Registry checks required by this section, the employment applicant shall be responsible for the payment of any fee associated with the criminal records check and the Child Maltreatment Central Registry check.

(3) At the conclusion of the criminal records check required by this section, the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police may maintain the fingerprints in the automated fingerprint identification system.

(4)(A) Any information received by the ~~Department of Education~~ **Division of Elementary and Secondary Education** from the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police or the Department of Human Services pursuant to this section shall not be available for examination except by the affected applicant for employment or his or her duly authorized representative, and no record, file, or document shall be removed from the custody of the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(B) Any information made available to the affected applicant for employment shall be information pertaining to that applicant only.

(C) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

(5) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promptly inform the board of directors of the educational entity whether or not the affected applicant is eligible for employment as provided by subsection (b) of this section.

(b)(1)(A) No person holding a license from the state board shall be eligible for employment by an educational entity if the results of the criminal records check released to the ~~Department of Education~~ **Division of Elementary and Secondary**

Education by the applicant reveal that the applicant has pleaded guilty or nolo contendere to or has been found guilty of any offense that will or may result in license revocation by the state board under § 6–17–410, unless the state board waives revocation.

(B) No person holding a license issued by the state board shall be eligible for employment by an educational entity if the results of the Child Maltreatment Central Registry check released to the ~~Department of Education~~ **Division of Elementary and Secondary Education** reveal that the applicant has a true report in the Child Maltreatment Central Registry, unless the state board waives revocation under § 6–17–410.

(2) However, the board of directors of an educational entity is authorized to offer provisional employment to the affected applicant pending notification from the ~~Department of Education~~ **Division of Elementary and Secondary Education** that the:

(A) Applicant is eligible for employment based on the background checks; or

(B) State board has waived the disqualifying offense or placement on the Child Maltreatment Central Registry.

(c) The board of directors of an educational entity shall require as a condition for supervised clinical practice at the educational entity that a preservice teacher seeking to conduct his or her supervised clinical practice shall authorize the release to the ~~Department of Education~~ **Division of Elementary and Secondary Education** of the results of the criminal records background check and Child Maltreatment Central Registry check required under subdivision (a)(1)(A) of this section.

(d) As used in this section:

(1) “Educational entity” means:

(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;

(2) “Preservice teacher” means an unlicensed individual who is accepted or enrolled in a teacher preparation program approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; and

(3) “Supervised clinical practice” means the placement of a preservice teacher by a teacher education program approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education** at the educational entity for the purpose of the student completing an internship or student teaching experience required by the teacher education program.

<< AR ST § 6–17–412 >>

SECTION 1396. Arkansas Code § 6–17–412(a)(1), concerning certification by the National Board for Professional Teaching Standards, is amended to read as follows: hold ⁴ a teaching license from the ~~Department of Education~~ **Division of Elementary and Secondary Education** and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

SECTION 1397. Arkansas Code § 6–17–413(a)(1)(A), concerning bonuses and certification funding by the National Board for Professional Teaching Standards, is amended to read as follows:

<< AR ST § 6-17-413 >>

(a)(1)(A) The Department of Education **Division of Elementary and Secondary Education** shall pay the full amount of the participation fee of the National Board for Professional Teaching Standards and provide, if determined to be necessary by the department **division**, substitute pay for a maximum of three (3) days of approved paid leave for teachers selected by the State Board of Education to participate in the program of the national board.

SECTION 1398. The introductory language of Arkansas Code § 6-17-413(a)(3)(A), concerning bonuses and certification funding by the National Board for Professional Teaching Standards, is amended to read as follows:

<< AR ST § 6-17-413 >>

(3)(A) The department **division** shall pay a yearly incentive bonus of five thousand dollars (\$5,000) for no more than ten (10) school years or, in the case of a recertification obtained before January 1, 2018, for the life of the recertification to any classroom teacher, building-level principal, or building-level assistant principal who:

SECTION 1399. Arkansas Code § 6-17-413(b) and (c), concerning bonuses and certification funding by the National Board for Professional Teaching Standards, are amended to read as follows:

<< AR ST § 6-17-413 >>

(b)(1) A teacher who receives state moneys for the participation fee of the National Board for Professional Teaching Standards but who does not complete the certification process within three (3) years after the teacher's entry into the certification program of the national board or who becomes certified by the national board but does not teach or serve as a building-level principal or building-level assistant principal in the Arkansas public school system for three (3) continuous school years after receiving the certification by the national board shall repay the department **division** the amount it contributed to the participation fee of the national board and the total amount it contributed to any yearly bonus.

(2) If the teacher, principal, or assistant principal leaves the employment of a public school district before the three (3) continuous years are completed and is employed by an Arkansas institution of higher education or employed by an education service cooperative and the teacher does not teach in a classroom with students, the teacher, principal, or assistant principal shall repay the department **division** the amount it contributed to the participation fee of the national board and the total amount it contributed to any yearly salary bonus.

(3) The State Board of Education may suspend the Arkansas teacher's license of any person that fails, when required to do so, to repay moneys contributed by the department **division** for the certification program of the national board.

(4) Repayment of moneys contributed by the department **division** is not required if, due to the death or disability of the teacher or other extenuating circumstances as may be recognized by the State Board of Education, the teacher does not complete the certification process of the national board or does not teach in the Arkansas public school system for three (3) continuous school years after completing the certification process of the national board.

(c)(1) Provisions of this section and § 6-17-412 shall apply only to the extent that funds are appropriated to the department **division** to pay for these provisions.

(2)(A) For a member of the Arkansas Teacher Retirement System, the department **division** shall withhold any employee contributions when necessary from the incentive bonus and shall send the employee contributions to the system for credit as a part of the member's salary.

(B) The employer contributions shall be provided from funds that are appropriated to the department **division** to pay for the bonuses and shall be sent to the system for credit as employer contributions to match the member's salary.

SECTION 1400. The introductory language of Arkansas Code § 6–17–413(d)(2), concerning bonuses and certification funding by the National Board for Professional Teaching Standards, is amended to read as follows:

<< AR ST § 6–17–413 >>

(2) By December 1 of each year, the department **division** shall

(1) “Classroom teacher” means an individual who is required to ⁵ pay a yearly incentive bonus of five thousand dollars (\$5,000) to a speech-language pathologist who:

SECTION 1401. Arkansas Code § 6–17–413(d)(3)(A)(ii), concerning bonuses and certification funding by the National Board for Professional Teaching Standards, is amended to read as follows:

<< AR ST § 6–17–413 >>

(ii) If sufficient funds are not available to pay the full amount of the bonus to each certified speech-language pathologist as provided under this section, the department **division** may reduce the amount of the bonus for each qualified recipient proportionately as necessary to provide a bonus to each qualified speech-language pathologist in an equal amount.

SECTION 1402. Arkansas Code § 6–17–413(d)(5)(A)(i), concerning bonuses and certification funding by the National Board for Professional Teaching Standards, is amended to read as follows:

<< AR ST § 6–17–413 >>

(5)(A)(i) If a speech-language pathologist who receives a bonus under this subsection leaves employment in the Arkansas public school system before completing three (3) continuous school years of employment, the speech-language pathologist shall repay the department **division** a prorated portion of the bonus received in the school year based on a daily rate for the remainder of a school year in which the speech-language pathologist leaves employment.

SECTION 1403. The introductory language of Arkansas Code § 6–17–413(e)(1), concerning bonuses and certification funding by the National Board for Professional Teaching Standards, is amended to read as follows:

<< AR ST § 6–17–413 >>

(e)(1) The department **division** shall pay a yearly incentive bonus to a person who:

SECTION 1404. Arkansas Code § 6–17–413(e)(3)(F)(ii), concerning bonuses and certification funding by the National Board for Professional Teaching Standards, is amended to read as follows:

<< AR ST § 6–17–413 >>

(ii) A person who, as of December 1, 2017, meets the qualifications for a yearly incentive bonus under both this subsection and subsection (a) of this section may make an irrevocable election to receive future yearly incentive bonuses under this subsection by filing a written election with the ~~department~~ **division** no later than July 1, 2019.

SECTION 1405. Arkansas Code § 6-17-414(a)(1)(B)(i), concerning a criminal record check as condition for initial employment of nonlicensed personnel, is amended to read as follows:

<< AR ST § 6-17-414 >>

(B)(i) The person shall sign a release of information to the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1406. Arkansas Code § 6-17-414(a)(2)(A), concerning a criminal record check as condition for initial employment of nonlicensed personnel, is amended to read as follows:

<< AR ST § 6-17-414 >>

(2)(A) Upon completion of the criminal records check, the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police shall forward all releasable information obtained concerning the person to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, which shall promptly inform the board of directors of the educational entity whether or not the applicant is eligible for employment as provided by subsection (b) of this section.

SECTION 1407. Arkansas Code § 6-17-414(a)(3)(B) and (C), concerning a criminal record check as condition for initial employment of nonlicensed personnel, are amended to read as follows:

<< AR ST § 6-17-414 >>

(B) The applicant shall sign a release of information to the ~~Department of Education~~ **Division of Elementary and Secondary Education** and shall be responsible for the payment of any fee associated with the Child Maltreatment Central Registry check.

(C) The Department of Human Services shall forward all releasable information concerning the applicant to the ~~Department of Education~~ **Division of Elementary and Secondary Education** upon completion of the Child Maltreatment Central Registry check.

SECTION 1408. Arkansas Code § 6-17-414(c), concerning a criminal record check as condition for initial employment of nonlicensed personnel, is amended to read as follows:

<< AR ST § 6-17-414 >>

(c) However, the board of directors of an educational entity is authorized to offer provisional employment to an applicant pending receipt of eligibility information from the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1409. Arkansas Code § 6-17-414(d)(1), concerning a criminal record check as condition for initial employment of nonlicensed personnel, is amended to read as follows:

<< AR ST § 6-17-414 >>

(d)(1) Any information received by the ~~Department of Education~~ **Division of Elementary and Secondary Education** from the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police or the Department of Human Services pursuant to this section shall not be available for examination except by the affected applicant for employment or his or her duly authorized representative, and no record, file, or document shall be removed from the custody of the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1410. Arkansas Code § 6-17-414(e)(4), concerning a criminal record check as condition for initial employment of nonlicensed personnel, is amended to read as follows:

<< AR ST § 6-17-414 >>

(4) Knowingly submits or provides false or misleading information or knowingly fails to submit or provide information requested or required by law to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the state board, or Arkansas Legislative Audit;

SECTION 1411. Arkansas Code § 6-17-414(f)(1)(B) and (C), concerning a criminal record check as condition for initial employment of nonlicensed personnel, are amended to read as follows:

<< AR ST § 6-17-414 >>

(B) Has intentionally compromised the validity or security of any student test or testing program administered or required by the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

(C) Has knowingly submitted falsified information or failed to submit information requested or required by law to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the state board, or Arkansas Legislative Audit; or

SECTION 1412. 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:

<< AR ST § 6-17-414 >>

(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 1413. 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:

<< AR ST § 6-17-414 >>

(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 1414. 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:

<< AR ST § 6-17-414 >>

(C) Designated employee position with the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1415. Arkansas Code § 6-17-421(b)(1)(A), concerning a criminal record check for fraudulent acts, is amended to read as follows:

<< AR ST § 6-17-421 >>

(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 1416. Arkansas Code § 6-17-421(b)(3)(A), concerning a criminal record check for fraudulent acts, is amended to read as follows:

<< AR ST § 6-17-421 >>

(3)(A) Any information received by the ~~Department of Education~~ **Division of Elementary and Secondary Education** from the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police or the Department of Human Services pursuant to this section shall not be available for examination except by the affected applicant for employment or his or her duly authorized representative, and no record, file, or document shall be removed from the custody of the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1417. Arkansas Code § 6-17-421(b)(4), concerning a criminal record check for fraudulent acts, is amended to read as follows:

<< AR ST § 6-17-421 >>

(4) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promptly inform the board of directors of the educational entity whether or not the affected employment applicant is eligible for employment as provided in this subsection.

SECTION 1418. Arkansas Code § 6-17-421(c), concerning a criminal record check for fraudulent acts, is amended to read as follows:

<< AR ST § 6-17-421 >>

(c)(1) No person shall be eligible for employment as a fiscal officer by an educational entity if the results of the criminal records check released to the ~~Department of Education~~ **Division of Elementary and Secondary Education** by the applicant reveal that the applicant has pleaded guilty or nolo contendere to or has been found guilty of a fraudulent act but only after an opportunity for a hearing before the State Board of Education upon reasonable notice in writing.

(2) However, the board of directors of an educational entity is authorized to offer provisional employment to the affected applicant pending receipt of eligibility information from the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1419. Arkansas Code § 6-17-422(b)(1)(A), concerning the establishment of the Professional Licensure Standards and Board, is amended to read as follows:

<< AR ST § 6-17-422 >>

(A) The Commissioner of **Elementary and Secondary** Education or his or her designee, who shall serve as a nonvoting member;

SECTION 1420. Arkansas Code § 6-17-422(b)(1)(E), concerning the establishment of the Professional Licensure Standards Board, is amended to read as follows:

<< AR ST § 6-17-422 >>

(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 1421. Arkansas Code § 6-17-422(g)(2), concerning the establishment of the Professional Licensure Standards Board, is amended to read as follows:

<< AR ST § 6-17-422 >>

(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 1422. Arkansas Code § 6-17-422(h)(2)(A), concerning the establishment of the Professional Licensure Standards Board, is amended to read as follows:

<< AR ST § 6-17-422 >>

(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 1423. Arkansas Code § 6-17-422(h)(4)(A)(ii), concerning the establishment of the Professional Licensure Standards Board, is amended to read as follows:

<< AR ST § 6-17-422 >>

(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 1424. Arkansas Code § 6-17-424(b), concerning the eligibility of a school counselor for administrator licensure for counselors, is amended to read as follows:

<< AR ST § 6-17-424 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promulgate the rules necessary to implement this section.

SECTION 1425. The introductory language of Arkansas Code § 6-17-426(a)(1), concerning a review of repeat audit findings by the Professional Licensure Standards Board, is amended to read as follows:

<< AR ST § 6-17-426 >>

(a)(1) The Legislative Joint Auditing Committee may refer an audit report of a school district to the ~~Department of Education~~ **Division of Elementary and Secondary Education** if:

SECTION 1426. Arkansas Code § 6-17-426(a)(2), concerning a review of repeat audit findings by the Professional Licensure Standards Board, is amended to read as follows:

<< AR ST § 6-17-426 >>

(2) The ~~department~~ **division** shall submit the audit report referred in subdivision (a)(1) of this section to the Professional Licensure Standards Board in forms approved by the ~~department~~ **division**.

SECTION 1427. Arkansas Code § 6-17-427(a)(1) and (2), concerning superintendent licenses and superintendent mentoring program requirement, are amended to read as follows:

<< AR ST § 6-17-427 >>

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall develop and sponsor a superintendent mentoring program for first-year superintendents that includes without limitation:

(A) Curriculum and instruction;

(B) Ethics;

- (C) Facilities;
- (D) Human resources;
- (E) Leadership;
- (F) School funding; and
- (G) Technology.

(2) The department **division** shall incorporate all training that is currently required for first-year superintendents into the superintendent mentoring program.

SECTION 1428. Arkansas Code § 6-17-428(d)(1), concerning ethical violations, is amended to read as follows:

<< AR ST § 6-17-428 >>

- (1) The Department of Education **Division of Elementary and Secondary Education;**

SECTION 1429. Arkansas Code § 6-17-428(p)(3)(A)(i), concerning ethical violations, is amended to read as follows:

<< AR ST § 6-17-428 >>

(3)(A)(i) The department **division** shall establish and maintain a website providing a school hiring officer with the ability to determine if the State Board of Education has acted upon an ethics complaint concerning a violation of the standard in subdivision (p)(2)(A) of this section involving the sexual abuse of a student by an applicant for employment who holds an Arkansas teaching or administrator's license or an individual intending to be employed under a waiver from licensure as a teacher of record or as an administrator.

SECTION 1430. Arkansas Code § 6-17-428(p)(3)(B), concerning ethical violations, is amended to read as follows:

<< AR ST § 6-17-428 >>

(B) Before an educator who holds an Arkansas teaching license or administrator's license or an individual intending to be employed under a waiver from licensure as a teacher of record or as an administrator may be hired for employment at an Arkansas school, the school hiring officer shall check the website maintained by the department **division** under subdivision (p)(3)(A) of this section to determine whether the State Board of Education has acted upon a violation of the standard in subdivision (p)(2)(A) of this section involving the sexual abuse of a student by the applicant.

SECTION 1431. The introductory language of Arkansas Code § 6-17-428(q), concerning ethical violations, is amended to read as follows:

<< AR ST § 6-17-428 >>

(q) Subject to the disclosure limitations of subsections (m) and (o) of this section, the department **division** may include on the department's **division's** public website for licensure the following information on each violation of the code of ethics by an educator whose license the State Board of Education has suspended, revoked, denied, or not renewed based on the recommendations of the ethics subcommittee:

SECTION 1432. Arkansas Code § 6-17-429(e), concerning the Right to Read Act, is amended to read as follows:

<< AR ST § 6-17-429 >>

(e) A provider of a state-approved educator preparation program shall include in its annual report to the Department of Education **Division of Elementary and Secondary Education** a description of the provider's program to prepare educators to teach reading using scientific reading instruction.

SECTION 1433. Arkansas Code § 6-17-429(g), concerning the Right to Read Act, is amended to read as follows:

<< AR ST § 6-17-429 >>

(g)(1) The department **division** is vested with the authority to and shall enforce this section.

(2) The department **division** shall promulgate rules to implement this section.

SECTION 1434. Arkansas Code § 6-17-603 is amended to read as follows:

<< AR ST § 6-17-603 >>

6-17-603. Reporting of test scores — Confidentiality.

(a)(1) Scores from the tests required under this subchapter and § 6-17-402 shall not be disclosed but shall be retained by the Department of Education **Division of Elementary and Secondary Education** as confidential records not subject to the Freedom of Information Act of 1967, § 25-19-101 et seq., or any other act that would require the disclosure thereof.

(2) However, the department **division** shall provide each licensee with that person's test score and the grader's analysis of the writing portion of the test.

(b) The department **division** shall transmit to the Governor and the House Committee on Education and the Senate Committee on Education a composite report indicating by county the number of persons who failed the tests and the number of persons who passed the tests.

SECTION 1435. Arkansas Code § 6-17-701(a), concerning a program to improve reading skills, is amended to read as follows:

<< AR ST § 6-17-701 >>

(a) The Department of Education **Division of Elementary and Secondary Education** is authorized and directed to develop and implement an inclusive statewide program to improve the reading skills of students in the public schools of this state.

SECTION 1436. Arkansas Code § 6-17-701(c), concerning a program to improve reading skills, is amended to read as follows:

<< AR ST § 6-17-701 >>

(c) The intensive in-service training in the teaching of reading provided for in this section shall be developed and implemented under the direction of reading specialists of the ~~department~~ **division** and selected in-service teachers who have been identified as having been particularly successful in the teaching of reading.

SECTION 1437. Arkansas Code § 6-17-702(a)(1)(B), concerning school district staff development sessions, is amended to read as follows:

<< AR ST § 6-17-702 >>

(B) Licensed personnel may count up to two (2) days of six (6) hours each of attendance at instructional professional development sessions conducted by bona fide professional organizations toward fulfillment of the ten (10) days of staff development required by the Standards for Accreditation of Arkansas Public Schools and School Districts, provided the sessions have been certified by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1438. Arkansas Code § 6-17-704(a)(1), concerning a professional development plan, is amended to read as follows:

<< AR ST § 6-17-704 >>

(1) Is required by statute or by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; or

SECTION 1439. Arkansas Code § 6-17-704(e)(1), concerning a professional development plan, is amended to read as follows:

<< AR ST § 6-17-704 >>

(1) Shall comply with the ~~Department of Education~~ **Division of Elementary and Secondary Education** Rules Governing Professional Development; and

SECTION 1440. Arkansas Code § 6-17-704(f)(2), concerning a professional development plan, is amended to read as follows:

<< AR ST § 6-17-704 >>

(2) Delivered by any method, online or otherwise, approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education** under the State Board of Education rules.

SECTION 1441. Arkansas Code § 6-17-705(d), concerning professional development credit, is amended to read as follows:

<< AR ST § 6-17-705 >>

(d) A person who holds any license issued by the State Board of Education may obtain credit for required professional development through a micro-credentialing process approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1442. Arkansas Code § 6-17-707(b) and (c), concerning the Arkansas Online Professional Development Initiative, are amended to read as follows:

<< AR ST § 6-17-707 >>

(b) Under the initiative, the Commissioner of **Elementary and Secondary** Education shall identify teacher professional development needs in the state and prioritize the needs based on the areas of professional development most needed to improve academic and teaching knowledge and skills of licensed personnel.

(c) Based on the needs and priorities identified in the assessment under subsection (b) of this section, the commissioner shall work with the Director of the Educational Television Division of the ~~Department of Education~~ **Division of Elementary and Secondary Education** and local school districts to develop a statewide online professional development program that includes quality professional development courses that:

- (1) Are aligned to the required focus areas identified in the State Board of Education rules governing professional development and the Arkansas Educational Support and Accountability Act, § 6-15-2901 et seq.;
- (2) Are aligned with the clear, specific, and challenging academic content areas as established by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as required under § 6-15-2906;
- (3) Are aligned with the Arkansas academic standards established by the ~~department~~ **division** for each class level or subject area included in the respective professional development programs;
- (4) Are research-based and available from sources with expertise in technology-delivered professional development courses;
- (5) Are consistent with the Board of Control for Southern Regional Education multistate online professional development standards in existence on January 1, 2005;
- (6) Focus on improving student academic achievement by improving a teacher's academic and teaching knowledge and skills; and
- (7) Include an assessment at the end of the program designed to measure each licensed person's level of understanding and ability to implement or apply the information presented in the program.

SECTION 1443. Arkansas Code § 6-17-707(d)(4), concerning the Arkansas Online Professional Development Initiative, is amended to read as follows:

<< AR ST § 6-17-707 >>

- (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 1444. Arkansas Code § 6-17-707(e), concerning the Arkansas Online Professional Development Initiative, is amended to read as follows:

<< AR ST § 6-17-707 >>

(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 1445. Arkansas Code § 6-17-707(f)-(h), concerning the Arkansas Online Professional Development Initiative, are amended to read as follows:

<< AR ST § 6-17-707 >>

(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 district as appropriate for the licensed personnel's job assignments and duties.

SECTION 1446. Arkansas Code § 6-17-708(a), concerning teen suicide awareness and prevention professional development, is amended to read as follows:

<< AR ST § 6-17-708 >>

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall require two (2) hours of professional development in teen suicide awareness and prevention for licensed public school personnel according to the professional development schedule under § 6-17-709.

(2) The professional development under this section may be accomplished through self-review of suitable suicide prevention materials approved by the ~~department~~ **division**.

SECTION 1447. Arkansas Code § 6-17-709(b), concerning a professional development schedule for school personnel, is amended to read as follows:

<< AR ST § 6-17-709 >>

(b)(1) Two (2) hours of the professional development required by subsection (a) of this section shall be counted in one (1) school year toward the minimum number of hours of professional development required for licensed educators under the ~~Department of Education~~ **Division of Elementary and Secondary Education** Rules Governing Professional Development.

(2) If additional hours are obtained by a licensed educator, the school district may count those hours as part of the minimum number of hours of professional development required for licensed educators under the ~~Department of Education~~ **Division of Elementary and Secondary Education** Rules Governing Professional Development.

SECTION 1448. Arkansas Code § 6-17-709(d), concerning the Arkansas Online Professional Development Initiative, is amended to read as follows:

<< AR ST § 6-17-709 >>

(d) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall establish the curriculum under this section in collaboration with educational agencies and associations, including without limitation the:

- (1) ~~Department~~ **Division** of Higher Education;
- (2) Arkansas Association of Educational Administrators;
- (3) Arkansas Education Association;
- (4) Arkansas School Boards Association;
- (5) Arkansas Association for Supervision and Curriculum Development;
- (6) Arkansas State Teachers Association; and
- (7) Arkansas Rural Ed Association.

SECTION 1449. Arkansas Code § 6-17-709(e)(1)(A), concerning the Arkansas Online Professional Development Initiative, is amended to read as follows:

<< AR ST § 6-17-709 >>

(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 1450. Arkansas Code § 6-17-709(e)(1)(C), concerning the Arkansas Online Professional Development Initiative, is amended to read as follows:

<< AR ST § 6-17-709 >>

(C) Providers approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1451. The introductory language of Arkansas Code § 6-17-709(e)(3)(A), concerning the Arkansas Online Professional Development Initiative, is amended to read as follows:

<< AR ST § 6-17-709 >>

(3)(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall not issue an initial teaching license until the applicant verifies that he or she has obtained the required professional development concerning:

SECTION 1452. Arkansas Code § 6-17-709(e)(3)(B), concerning the Arkansas Online Professional Development Initiative, is amended to read as follows:

<< AR ST § 6-17-709 >>

(B) For a teaching license issued under the state's reciprocity provisions to an out-of-state teacher, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall issue a provisional license until the licensee obtains the professional development identified in subdivision (e)(3)(A) of this section.

SECTION 1453. Arkansas Code § 6-17-710(b), concerning human trafficking professional development, is amended to read as follows:

<< AR ST § 6-17-710 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** or another person, firm, or corporation designated by the ~~department~~ **division** shall develop and administer the professional development under subsection (a) of this section.

SECTION 1454. Arkansas Code § 6-17-803(b)(3), concerning optional contracts for teachers payable in monthly installments, is amended to read as follows:

<< AR ST § 6-17-803 >>

(3) If any teacher fails to repay any money owed to a school district upon a contract breached by him or her, the secretary of the school district shall certify the failure to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and the State Board of Education shall suspend the teacher's license until all of the money is repaid.

SECTION 1455. Arkansas Code § 6-17-805(f)(1), concerning deduction from salary for professional membership dues, is amended to read as follows:

<< AR ST § 6-17-805 >>

(1) "Classified employee" means any person employed by a school district under a written annual contract who is not required to have a teaching license issued by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as a condition of employment; and

SECTION 1456. Arkansas Code § 6-17-811(a)(2)(A), concerning incentives for teacher recruitment and retention in high-priority districts, is amended to read as follows:

<< AR ST § 6-17-811 >>

(2)(A) “National school lunch students” means those students or the percentage of enrolled students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the National School Lunch Act as determined on October 1 of each previous school year and submitted to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, unless the school district is identified by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759a, as interpreted in 7 C.F.R. § 245.9.

SECTION 1457. Arkansas Code § 6–17–811(c)(2), concerning incentives for teacher recruitment and retention in high-priority districts, is amended to read as follows:

<< AR ST § 6–17–811 >>

(2) The superintendent of the high-priority district where the teacher is employed shall certify in writing to the ~~department~~ **division** that the teacher has completed all contractual obligations for the school year.

SECTION 1458. The introductory language of Arkansas Code § 6–17–811(d), concerning incentives for teacher recruitment and retention in high-priority districts, is amended to read as follows:

<< AR ST § 6–17–811 >>

(d) The ~~department~~ **division** shall:

SECTION 1459. Arkansas Code § 6–17–811(e)(2), concerning incentives for teacher recruitment and retention in high-priority districts, is amended to read as follows:

<< AR ST § 6–17–811 >>

(2) If the funds appropriated and available for the payment of the bonuses under this section are insufficient to pay the maximum bonus amounts to each qualifying teacher, the ~~department~~ **division** shall distribute the available funding to qualified teachers on a pro rata basis.

SECTION 1460. Arkansas Code § 6–17–812(a)(4), concerning compensation for teaching more than the maximum number of students, is amended to read as follows:

<< AR ST § 6–17–812 >>

(4)(A) Except when a teacher teaches a course that lends itself to large group instruction, as defined by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the maximum number of students a teacher in grades five through twelve (5–12) is permitted to teach without receiving additional compensation under this section shall not exceed one hundred fifty (150) students per day.

(B) The ~~department~~ **division** shall include in the Standards for Accreditation of Arkansas Public Schools and School Districts the maximum number of students under subdivision (a)(4)(A) of this section.

SECTION 1461. Arkansas Code § 6–17–812(e), concerning compensation for teaching more than the maximum number of students, is amended to read as follows:

<< AR ST § 6-17-812 >>

(e)(1) The department **division** shall promulgate rules to implement this section.

(2) The rules promulgated by the department **division** shall include without limitation the manner in which students in grades five (5) and six (6) are to be counted for the purposes of this section.

SECTION 1462. Arkansas Code § 6-17-907(f), concerning school district funds, is amended to read as follows:

<< AR ST § 6-17-907 >>

(f) The county treasurer shall credit all the various federal funds to the consolidated federal grants fund unless otherwise specifically designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1463. Arkansas Code § 6-17-907(k), concerning school district funds, is amended to read as follows:

<< AR ST § 6-17-907 >>

(k) The county treasurer may request representatives of Arkansas Legislative Audit or of the department **Division of Elementary and Secondary Education** to assist in establishing and crediting the various percentages of revenue to the respective funds.

SECTION 1464. Arkansas Code § 6-17-913(b), concerning audits of school districts accounts, is amended to read as follows:

<< AR ST § 6-17-913 >>

(b) Where audits are made by a certified public accountant, a certified copy of the audit shall be distributed to the school district, the Department of Finance and Administration, the ~~Department~~ **Division** of Career and Technical Education, and the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1465. Arkansas Code § 6-17-919(b), concerning void warrants unless a valid license and contract exist, is amended to read as follows:

<< AR ST § 6-17-919 >>

(b)(1) The school district superintendent and the superintendent's surety shall be liable for any warrants that he or she countersigns in payment of teachers' salaries unless and until the state board has issued a valid license or the ~~Department of Education~~ **Division of Elementary and Secondary Education** has provided the documentation required by subdivision (a)(1)(B) of this section.

(2) An online copy that is accessible on a website designated by the department **division** is sufficient evidence of the issuance of a valid license or the documentation required by subdivision (a)(1)(B) of this section.

SECTION 1466. The introductory language of Arkansas Code § 6-17-1113(a)(1), concerning the School Worker Defense Program, is amended to read as follows:

<< AR ST § 6-17-1113 >>

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall establish a School Worker Defense Program for the protection under subdivision (a)(2) of this section of:

SECTION 1467. Arkansas Code § 6-17-1113(c)(2), concerning the School Worker Defense Program, is amended to read as follows:

<< AR ST § 6-17-1113 >>

(2) Any school districts previously covered by or moneys expended pursuant to the self-insurance program of the ~~department~~ **division** or the School Worker Defense Program shall be deemed a proper expenditure of state funds.

SECTION 1468. Arkansas Code § 6-17-1113(e), concerning the School Worker Defense Program, is amended to read as follows:

<< AR ST § 6-17-1113 >>

(e)(1) The defense fund and protection program authorized in this section shall be a part of and administered by the ~~department~~ **division**.

(2) The ~~department~~ **division** shall adopt appropriate rules and regulations necessary to carry out the purposes of this section.

SECTION 1469. Arkansas Code § 6-17-1113(f), concerning the School Worker Defense Program, is amended to read as follows:

<< AR ST § 6-17-1113 >>

(f) Any person entitled to payment under the program may appeal the decision of the ~~department~~ **division** to the advisory board.

SECTION 1470. The introductory language of Arkansas Code § 6-17-1114 is amended to read as follows:

<< AR ST § 6-17-1114 >>

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 1471. Arkansas Code § 6-17-1117(b), concerning health insurance provided by the school district, is amended to read as follows:

<< AR ST § 6-17-1117 >>

(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 the amount needed to make the minimum contribution under subdivision (b)(1)(A) of this section, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall pay a proportional share of the excess on behalf of each participant.

SECTION 1472. Arkansas Code § 6-17-1118(a)(6) and (7), concerning the creation of the School Worker Defense Program Advisory Board, are amended to read as follows:

<< AR ST § 6-17-1118 >>

(6) The ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her designee; and

(7)(A) The Commissioner of **Elementary and Secondary** Education or his or her designee.

(B) Provided, however, no employee of the ~~Department of Education~~ **Division of Elementary and Secondary Education** who is charged with administering the defense fund and protection program shall be eligible to serve as the designee of the commissioner.

SECTION 1473. Arkansas Code § 6-17-1118(e), concerning the creation of the School Worker Defense Program Advisory Board, is amended to read as follows:

<< AR ST § 6-17-1118 >>

(e)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may promulgate rules and regulations as necessary for the proper administration of this section to establish an advisory board.

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide support staff for the advisory board.

SECTION 1474. Arkansas Code § 6-17-1405 is amended to read as follows:

<< AR ST § 6-17-1405 >>

6-17-1405. Notification of award — Transfer of available federal funds.

(a) Upon making any award to or in behalf of an employee of any school district, the Workers' Compensation Commission shall notify the appropriate officer of the school district and shall notify the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(b) If the salary or compensation of the employee in whose behalf the award was made is paid wholly or partly from federal funds, the ~~department~~ **division** is authorized to transfer funds from the federal funds available for the program under which such employee was paid to the Public School Fund to reimburse the Public School Fund for funds transferred to the Workers' Compensation Revolving Fund as provided for in this subchapter.

SECTION 1475. The introductory language of Arkansas Code § 6-17-1602(e)(1), concerning the creation of the Master School Principal Program, is amended to read as follows:

<< AR ST § 6-17-1602 >>

(e)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** and the academy shall:

SECTION 1476. Arkansas Code § 6-17-1603 is amended to read as follows

<< AR ST § 6-17-1603 >>

6-17-1603. Yearly incentive bonus.

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promulgate rules and regulations for the nine thousand dollar (\$9,000) yearly incentive bonus provided under this section for principals receiving master school principal status.

(b) The ~~department~~ **division** shall pay a yearly incentive bonus of nine thousand dollars (\$9,000) for every school year for no more than five (5) years to any building-level principal who:

- (1) Receives a master school principal designation from the Arkansas Leadership Academy; and
- (2) At the time of receiving the bonus, is employed full time as a building-level principal in an Arkansas public school district.

SECTION 1477. The introductory language of Arkansas Code § 6-17-1604(b)(1), concerning high-need school salary bonus and hold-back longevity, is amended to read as follows:

<< AR ST § 6-17-1604 >>

(b)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall pay a high-need school salary bonus of twenty-five thousand dollars (\$25,000) for every school year for no more than five (5) years to any building-level principal who:

SECTION 1478. Arkansas Code § 6-17-1702(1), concerning the definition of “employee” under the Public School Employee Fair Hearing Act, is amended to read as follows:

<< AR ST § 6-17-1702 >>

(1) “Employee” means any person employed by a school district under a written annual contract who is not required to have an educator license issued by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as a condition of employment;

SECTION 1479. Arkansas Code § 6–17–1901(d), concerning the minority teacher and administrator recruitment plan, is amended to read as follows:

<< AR ST § 6–17–1901 >>

(d) The plan shall be a part of the equity assistance plan filed annually with the Equity Assistance Center of the ~~Department of Education~~ **Division of Elementary and Secondary Education** and shall be updated annually for an additional ten (10) years.

SECTION 1480. Arkansas Code § 6–17–1902(a), concerning the Equity Assistance Center and the coordination and contents plan, is amended to read as follows:

<< AR ST § 6–17–1902 >>

(a) The Equity Assistance Center of the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide technical assistance to the school districts in developing recruitment plans.

SECTION 1481. Arkansas Code § 6–17–2205(2), concerning paid breaks for certain classified school district employees, is amended to read as follows:

<< AR ST § 6–17–2205 >>

(2) Each school district shall file an affidavit for compliance with the ~~Department of Education~~ **Division of Elementary and Secondary Education** regarding the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., for classified employees unless the school district policies or state laws impose higher standards.

SECTION 1482. Arkansas Code § 6–17–2206(a)(1), concerning highly qualified paraprofessional bonuses provided by the Department of Education, is amended to read as follows:

<< AR ST § 6–17–2206 >>

(a)(1) The purpose of this section is to provide a bonus from the ~~Department of Education~~ **Division of Elementary and Secondary Education** in recognition of the efforts made by paraprofessional employees who attain highly qualified status.

SECTION 1483. Arkansas Code § 6–17–2301(d)(2), concerning policy requirements for each school district, is amended to read as follows:

<< AR ST § 6–17–2301 >>

(2) By September 15 of each year, a school district shall provide the ~~Department of Education~~ **Division of Elementary and Secondary Education** with the website address at which its current personnel policies for classified employees, including the salary schedule, may be found.

SECTION 1484. Arkansas Code § 6-17-2301(e), concerning policy requirements for each school district, is amended to read as follows:

<< AR ST § 6-17-2301 >>

(e) The ~~department~~ **division** shall notify any school district that has not posted its policies on the school district website or provided the ~~department~~ **division** with the website address in accordance with this section.

SECTION 1485. Arkansas Code § 6-17-2302(b)(1), concerning the definition of “classified employee” under the Personnel Policy Law for Classified Employees, is amended to read as follows:

<< AR ST § 6-17-2302 >>

(1) “Classified employee” means any person employed by a school district under a written annual contract who is not required to have a teaching license issued by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as a condition of employment;

SECTION 1486. Arkansas Code § 6-17-2402(3)(A), concerning the Teacher Compensation Program, is amended to read as follows:

<< AR ST § 6-17-2402 >>

(A) An individual who is required to hold a teaching license from the ~~Department of Education~~ **Division of Elementary and Secondary Education** and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

SECTION 1487. Arkansas Code § 6-17-2403(c)(1)(A), concerning minimum teacher compensation schedules, is amended to read as follows:

<< AR ST § 6-17-2403 >>

(A) Public school accredited by the ~~Department of Education~~ **Division of Elementary and Secondary Education** or a nationally recognized accrediting association;

SECTION 1488. Arkansas Code § 6-17-2403(d)(2), concerning minimum teacher compensation schedules, is amended to read as follows:

<< AR ST § 6-17-2403 >>

(2) The minimum teacher compensation schedule for a part-time teacher or part-time paraprofessional employed by a school district to work in an adult education program shall be established by the Adult Education Section of the ~~Department of Career Education~~ **Division of Workforce Services** and approved by the ~~Career Education and Workforce Development Board~~ **Director of the Division of Workforce Services**.

SECTION 1489. Arkansas Code § 6-17-2406(c), concerning the applicability of teacher salary schedules and low income status, is amended to read as follows:

<< AR ST § 6-17-2406 >>

(c) The Civilian Student Training Program or the Arkansas National Guard Youth Challenge Program may be designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as a low-income school, and receive the benefits of such designation if the Civilian Student Training Program or the Arkansas National Guard Youth Challenge Program meets the low-income school criteria.

SECTION 1490. Arkansas Code § 6-17-2502(2), concerning the definition of “in residence” under the Arkansas Teacher of the Year Act, is amended to read as follows:

<< AR ST § 6-17-2502 >>

(2) “In residence” means working exclusively with the ~~Department of Education~~ **Division of Elementary and Secondary Education** at a location agreed upon between the ~~department~~ **division** and the Arkansas Teacher of the Year;

SECTION 1491. Arkansas Code § 6-17-2503(a)(1), concerning the Arkansas Teacher of the Year Program, is amended to read as follows:

<< AR ST § 6-17-2503 >>

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall develop a process for selecting the Arkansas Teacher of the Year.

SECTION 1492. The introductory language of Arkansas Code § 6-17-2503(e)(1), concerning the Arkansas Teacher of the Year Program, is amended to read as follows:

<< AR ST § 6-17-2503 >>

(1) Work in residence with the ~~department~~ **division** to:

SECTION 1493. Arkansas Code § 6-17-2503(f), concerning the Arkansas Teacher of the Year Program, is amended to read as follows:

<< AR ST § 6-17-2503 >>

(f) During the school year in which a school district's Arkansas Teacher of the Year is on paid administrative leave, the ~~department~~ **division** shall reimburse the school district as provided in § 6-17-2505.

SECTION 1494. Arkansas Code § 6-17-2505 is amended to read as follows:

<< AR ST § 6-17-2505 >>

6-17-2505. Department of Education Division of Elementary and Secondary Education responsibility.

(a) During the school year in which a school district's Arkansas Teacher of the Year is on paid administrative leave, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall reimburse the school district for:

(1) The teacher's salary and benefits; and

(2)(A) Incidental expenses incurred by the teacher as a result of his or her participation in the Arkansas Teacher of the Year Program.

(B) All incidental expenses shall be approved by the ~~department~~ **division**.

(b) The ~~department~~ **division** shall be responsible for the reimbursement of any incidental expenses incurred by the teacher during the implementation of the program for the current year.

(c) The ~~department~~ **division** may receive private donations, grants, or other forms of assistance to help fund any aspect of the program.

(d) The State Board of Education shall promulgate rules as necessary to administer the provisions of this section.

SECTION 1495. Arkansas Code § 6-17-2602(1)(D), concerning the lifetime teaching license, is amended to read as follows:

<< AR ST § 6-17-2602 >>

(D) The ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 1496. Arkansas Code § 6-17-2604(a), concerning the lifetime teaching license, is amended to read as follows:

<< AR ST § 6-17-2604 >>

(a) A person who meets the eligibility requirements of § 6-17-2603 may apply for a lifetime teaching license by filing an application with the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1497. Arkansas Code § 6-17-2606 is amended to read as follows:

<< AR ST § 6-17-2606 >>

6-17-2606. Rules — Reports.

The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall:

(1) Develop rules to implement the provisions of this subchapter; and

(2) Report annually to the General Assembly regarding compliance with each item set forth in this subchapter.

SECTION 1498. Arkansas Code § 6-17-2702(a), concerning the determination of eligibility for teachers to receive a supplemental grant from the Science, Technology, Engineering, and Math Fund, is amended to read as follows:

<< AR ST § 6-17-2702 >>

(a) The Arkansas Economic Development Commission, in coordination with the ~~Department of Education~~ **Division of Elementary and Secondary Education**, shall promulgate rules governing the eligibility of teachers of science, technology, engineering, or math to receive a supplemental grant from the Science, Technology, Engineering, and Math Fund.

SECTION 1499. Arkansas Code § 6–17–2703(b), concerning the application process for the Science, Technology, Engineering, and Math Fund, is amended to read as follows:

<< AR ST § 6–17–2703 >>

(b) Selection and identification of qualified science, technology, engineering, and math teachers shall be coordinated with the ~~Department of Education~~ **Division of Elementary and Secondary Education** for identification of qualified science, technology, engineering, and math teachers.

SECTION 1500. Arkansas Code § 6–17–2703(f), concerning the application process for the Science, Technology, Engineering, and Math Fund, is amended to read as follows:

<< AR ST § 6–17–2703 >>

(f) The commission shall review the applications in accordance with rules promulgated by the commission in coordination with the ~~department~~ **division** to determine if the applicant qualifies for a supplemental grant from the fund.

SECTION 1501. Arkansas Code § 6–17–2804(b)(10)(B), concerning the administrative agency responsibilities of the Teacher Excellence and Support System, is amended to read as follows:

<< AR ST § 6–17–2804 >>

(B) The raw data reported to and collected by the ~~Department of Education~~ **Division of Elementary and Secondary Education** for the purposes of this section, including all or part of the raw data that the ~~department~~ **division** provides to an expert outside the ~~department~~ **division** for analysis, is exempt from disclosure under the Freedom of Information Act of 1967, § 25–19–101 et seq.

SECTION 1502. Arkansas Code § 6–17–2809(a), concerning the system of administrator leadership support and evaluations, is amended to read as follows:

<< AR ST § 6–17–2809 >>

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall design a system of administrator leadership support and evaluations that:

- (A) Is aligned to current leadership standards adopted by the State Board of Education;
- (B) Uses multi-tiered systems of professional support and learning for what a leader should know and be able to do; and
- (C) Provides a research-based framework to conduct administrator evaluations.

(2) The ~~department~~ **division** may collaborate with state and national school leadership organizations and institutions of higher education with school leadership preparation programs to develop the system.

SECTION 1503. Arkansas Code § 6–18–102(f), concerning legislative findings regarding school uniform policy, is amended to read as follows:

<< AR ST § 6–18–102 >>

(f) The ~~Department of Education~~ **Division of Elementary and Secondary Education** and education service cooperatives shall, when possible, assist public schools by providing information regarding uniform dress codes upon request from public school administrators.

SECTION 1504. Arkansas Code § 6–18–103(c), concerning selective service registration, is amended to read as follows:

<< AR ST § 6–18–103 >>

(c) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall issue rules and regulations to ensure compliance with the provisions of this section.

SECTION 1505. Arkansas Code § 6–18–105 is amended to read as follows:

<< AR ST § 6–18–105 >>

6–18–105. Skills and knowledge for preparation of kindergarten children.

(a)(1) ~~By December 31, 2003, the~~ **The** Department of Education shall determine and prepare a list of the skills and knowledge that a child should have in order to be prepared to enter kindergarten.

(2) The list shall be prepared in a manner that will assist parents in preparing their children for kindergarten.

(b)(1) The list shall be available to parents on the ~~Department of Education's~~ **Division of Elementary and Secondary Education's** website and from the ~~Department of Education~~ **Division of Elementary and Secondary Education** by mail if requested.

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall make reasonable efforts to have the list of skills published in the Happy Birthday Baby Book.

(c)(1) The Department of Human Services shall provide copies of the list to child care facilities licensed by the Division of Child Care and Early Childhood Education.

(2) ~~By December 31, 2003, the~~ **The** Department of Human Services shall adopt rules and regulations requiring child care facilities licensed by the ~~division~~ **Division of Child Care and Early Childhood Education** each year to distribute the list to the parent of each three-year-old child, four-year-old child, and five-year-old child attending the child care facility.

(d) Nothing in this section shall be construed to require a child to have a certain level of skill or knowledge before enrolling in kindergarten.

SECTION 1506. The introductory language of Arkansas Code § 6–18–107(b), concerning the enrollment of military dependents in school, is amended to read as follows:

<< AR ST § 6–18–107 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall require a public school to report the enrollment of a student who is a military dependent:

SECTION 1507. Arkansas Code § 6-18-109(a)(1)(B), concerning the Student Online Personal Information Protection Act, is amended to read as follows:

<< AR ST § 6-18-109 >>

(B) Created or provided by an employee or agent of a public school, school district, local education agency, or ~~Department of Education~~ **the Division of Elementary and Secondary Education** to the operator for public school purposes; or

SECTION 1508. Arkansas Code § 6-18-109(a)(2)(B), concerning the Student Online Personal Information Protection Act, is amended to read as follows:

<< AR ST § 6-18-109 >>

(B) An operator does not include the ~~Department of Education~~ **Division of Elementary and Secondary Education**, a school district, or an open-enrollment public charter school;

SECTION 1509. Arkansas Code § 6-18-109(f)(2)(B), concerning the Student Online Personal Information Act, is amended to read as follows:

<< AR ST § 6-18-109 >>

(B) As allowed by federal or state law and under the direction of a school, school district, or the ~~department~~ **division** if no covered information is used for advertising or to compile a profile of a public school student; or

SECTION 1510. Arkansas Code § 6-18-202(e)(5)(B), concerning age and residence for attending public schools, is amended to read as follows:

<< AR ST § 6-18-202 >>

(B) The appeal shall be made to the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1511. Arkansas Code § 6-18-202(e)(6)(A) and (B), concerning age and residence for attending public schools, are amended to read as follows:

<< AR ST § 6-18-202 >>

(6)(A) The ~~department~~ **division** shall promulgate rules to establish the procedure for a ~~department~~ **division** hearing officer to investigate the appeal and conduct a hearing.

(B) The department **division** hearing officer may compel disclosure of information from both of the school districts in his or her duties.

SECTION 1512. Arkansas Code § 6-18-204(b)(5)(B), concerning school attendance in another school district and conditions, is amended to read as follows:

<< AR ST § 6-18-204 >>

(B) The amount of tuition shall be agreed upon by both districts before enrollment in the receiving district, except that if an agreement cannot be reached by the opening date of the receiving school, an appeal shall be made to the Assistant Director for Public School Finance and Administrative Support of the ~~Department of Education~~ **Division of Elementary and Secondary Education** within thirty (30) days from the opening date of school, and his or her decision shall be final.

SECTION 1513. Arkansas Code § 6-18-205(b)(1)(B)(i), concerning school attendance in another school district and liability, is amended to read as follows:

<< AR ST § 6-18-205 >>

(B)(i) Either school district may petition the ~~Department of Education~~ **Division of Elementary and Secondary Education** to satisfy the liability by transferring that amount to the entitled school district from funds which the department **division** would have distributed to the liable school district.

SECTION 1514. Arkansas Code § 6-18-208(a), concerning requirements for enrollment in public school and exceptions, is amended to read as follows:

<< AR ST § 6-18-208 >>

(a) Before a child's admission to an Arkansas public school, a school district shall request the parent, guardian, or other responsible person to furnish the child's Social Security number and shall inform the parent, guardian, or other responsible person that, in the alternative, they may request that the school district assign the child a nine-digit number designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1515. Arkansas Code § 6-18-208(d)(2), concerning requirements for enrollment in public school and exceptions, is amended to read as follows:

<< AR ST § 6-18-208 >>

(2) This section shall not apply to educational records that are transferred to or between the department **division**, other public schools or school districts, or other governmental agencies as allowed or required by federal law, state law, or State Board of Education rule.

SECTION 1516. Arkansas Code § 6-18-213(a)(1), concerning school attendance records and reports, is amended to read as follows:

<< AR ST § 6-18-213 >>

(a)(1) A record of pupil attendance shall be kept by each school district of the state in a format prescribed by the Department of Education **Division of Elementary and Secondary Education**.

SECTION 1517. Arkansas Code § 6-18-215(c) and (d), concerning a school enrollment census and determining student dropout rates, are amended to read as follows:

<< AR ST § 6-18-215 >>

(c) The graduation rates, as defined by the Department of Education **Division of Elementary and Secondary Education**, shall be tracked for students in grades nine through twelve (9-12).

(d) The department **division** shall use this section for in-state reporting purposes related to school dropout rates.

SECTION 1518. Arkansas Code § 6-18-227(b)(1)(B), concerning the Arkansas Opportunity Public School Choice Act of 2004, is amended to read as follows:

<< AR ST § 6-18-227 >>

(B) The parent, guardian, or the student, if the student is over eighteen (18) years of age, has notified the Department of Education **Division of Elementary and Secondary Education** and both the sending and receiving school districts of the request for a transfer no later than July 30 of the first year in which the student intends to transfer.

SECTION 1519. Arkansas Code § 6-18-227(b)(2)(B), concerning the Arkansas Opportunity Public School Choice Act of 2004, is amended to read as follows:

<< AR ST § 6-18-227 >>

(B) Application for the opportunity public school choice option shall be provided by the department **division**, shall contain a notice that a transfer under this subsection shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student completes high school as provided in this subsection except as otherwise provided by law.

SECTION 1520. Arkansas Code § 6-18-227(d)(4), concerning the Arkansas Opportunity Public School Choice Act of 2004, is amended to read as follows:

<< AR ST § 6-18-227 >>

(4) The department **division** shall promulgate rules governing the use of school capacity as a basis for denying admission under this section.

SECTION 1521. Arkansas Code § 6-18-227(f), concerning the Arkansas Opportunity Public School Choice Act of 2004, is amended to read as follows:

<< AR ST § 6-18-227 >>

(f) The ~~department~~ **division** shall develop an annual report on the status of school choice and deliver the report to the state board, the Governor, and the Legislative Council at least ninety (90) days before the convening of the regular session of the General Assembly.

SECTION 1522. Arkansas Code § 6-18-227(j)(1)-(3), concerning the Arkansas Opportunity Public School Choice Act of 2004, are amended to read as follows:

<< AR ST § 6-18-227 >>

(j)(1) All school districts shall report to the ~~department~~ **division** on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the ~~department~~ **division**, or the data may be submitted electronically by the district using a format authorized by the ~~department~~ **division**.

(3) The ~~department~~ **division** may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the ~~department~~ **division** so long as thirty (30) calendar days are given between the request for the information and the published deadline.

(4) A copy of the report shall be provided to the House Committee on Education and the Senate Committee on Education.

SECTION 1523. Arkansas Code § 6-18-230(b)(2)(B), concerning the minimum age for enrolling in prekindergarten, is amended to read as follows:

<< AR ST § 6-18-230 >>

(B) ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1524. Arkansas Code § 6-18-233(c)(2)(B), concerning school choices for children in foster care, is amended to read as follows:

<< AR ST § 6-18-233 >>

(B) If a public school district claims a conflict under subdivision (c)(2)(A) of this section, the public school district shall immediately submit proof from a federal court to the ~~Department of Education~~ **Division of Elementary and Secondary Education** that the public school district has a genuine conflict under an active desegregation order or active court-approved desegregation plan with the provisions of this section.

SECTION 1525. Arkansas Code § 6–18–233(d)(1)(A), concerning school choices for children in foster care, is amended to read as follows:

<< AR ST § 6–18–233 >>

(A) Made on a form approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; and

SECTION 1526. Arkansas Code § 6–18–233(k), concerning school choices for children in foster care, is amended to read as follows:

<< AR ST § 6–18–233 >>

(k) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promulgate rules to implement this section.

SECTION 1527. Arkansas Code § 6–18–316(b) and (c), concerning the transfer of a student on a petition, are amended to read as follows:

<< AR ST § 6–18–316 >>

(b) Forms for use in transferring children from one (1) school district to another shall be provided by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(c) After the petition has been approved by the board of directors of the resident district and the board of directors of the receiving district, copies of approved transfers shall be filed by the receiving district with the office of the county clerk, with the administrative offices of the respective school districts, and with the ~~department~~ **division**.

SECTION 1528. Arkansas Code § 6–18–317(b) and (c), concerning prohibited student transfers, are amended to read as follows:

<< AR ST § 6–18–317 >>

(b) Each form filed with the ~~Department of Education~~ **Division of Elementary and Secondary Education** reporting a legal student transfer must be accompanied by an affidavit signed by each member of both school district boards of directors stating that the transfer does not violate the prohibition set forth in subsection (a) of this section.

(c) If the transfer fails to comply with subsection (b) of this section, the ~~department~~ **division** shall withhold from each district state aid in an amount equal to that to be generated by the student in question in the respective districts.

SECTION 1529. Arkansas Code § 6–18–319(c), concerning proper contacts of a transfer student, is amended to read as follows:

<< AR ST § 6–18–319 >>

(c) A school district from which the student transferred has the right to appeal the transfer of the student to the Department of Education **Division of Elementary and Secondary Education**. The school district to which the student transferred and the parents or guardian of the student shall have the burden to prove the transfer was proper.

SECTION 1530. Arkansas Code § 6-18-502(a), concerning the guidelines for development of school district student discipline policies, is amended to read as follows:

<< AR ST § 6-18-502 >>

(a) The Department of Education **Division of Elementary and Secondary Education** shall establish guidelines for the development of school district student discipline policies.

SECTION 1531. Arkansas Code § 6-18-502(h), concerning the guidelines for development of school district student discipline policies, is amended to read as follows:

<< AR ST § 6-18-502 >>

(h) In developing the state guidelines for school district discipline policies, the department **division** shall involve parents, students, teachers, and administrators.

SECTION 1532. Arkansas Code § 6-18-503(a)(1)(A), concerning the requirement of written student discipline policies, is amended to read as follows:

<< AR ST § 6-18-503 >>

(a)(1)(A) Each school district in this state shall develop written student discipline policies in compliance with the guidelines established by the Department of Education **Division of Elementary and Secondary Education** and shall file such policies with the department **division**.

SECTION 1533. Arkansas Code § 6-18-503(d) and (e), concerning the requirement of written student discipline policies, are amended to read as follows:

<< AR ST § 6-18-503 >>

(d) Any amendments or revisions to a school district's student discipline policies shall be developed and adopted in the same manner as the original policies required by § 6-18-502 and shall be consistent with the guidelines established by the department **division**.

(e) Any amendment or revision to the student discipline policies adopted by a school district shall be submitted to the department **division** within thirty (30) days after the adoption of such amendment or revision.

SECTION 1534. Arkansas Code § 6-18-504(a) and (b), concerning compliance with §§ 6-18-502 and 6-18-503, is amended to read as follows:

<< AR ST § 6-18-504 >>

6-18-504. Compliance with §§ 6-18-502 and 6-18-503.

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall monitor compliance with the requirements of §§ 6–18–502 and 6–18–503, and the State Board of Education shall adopt rules and regulations for the administration of the requirements thereof.

(b) Any school district failing to file the disciplinary policy required by § 6–18–503 with the ~~department~~ **division** shall have all state aid funds withheld until such disciplinary policy is filed with the ~~department~~ **division**.

SECTION 1535. Arkansas Code § 6–18–506(b), concerning the School Dismissal Act, is amended to read as follows:

<< AR ST § 6–18–506 >>

(b) Every school district board of directors shall adopt and file with the ~~Department of Education~~ **Division of Elementary and Secondary Education** written policies concerning the violation of school standards such as disrespect for teachers and classified school employees, vandalism, and other undesirable behavioral patterns.

SECTION 1536. Arkansas Code § 6–18–506(e), concerning the School Dismissal Act, is amended to read as follows:

<< AR ST § 6–18–506 >>

(e) The policy may be revised at any time by filing an updated policy with the ~~department~~ **division**.

SECTION 1537. Arkansas Code § 6–18–507(a)(3), concerning the suspension or expulsion of a student, is amended to read as follows:

<< AR ST § 6–18–507 >>

(3) “Nontraditional scheduling” means block or other alternative scheduling as defined by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; and

SECTION 1538. Arkansas Code § 6–18–507(e)(3)(B), concerning the suspension or expulsion of a student, is amended to read as follows:

<< AR ST § 6–18–507 >>

(B) The principal of each school shall report within a week to the ~~department~~ **division** the name, current address, and Social Security number of any student who is expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

SECTION 1539. Arkansas Code § 6–18–507(e)(4)(A), concerning the suspension or expulsion of a student, is amended to read as follows:

<< AR ST § 6–18–507 >>

(4)(A) The ~~department~~ **division** shall establish and maintain a registry of students who are expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

SECTION 1540. The introductory language of Arkansas Code § 6–18–511(d)(1), concerning the removal of a student from class, is amended to read as follows:

<< AR ST § 6–18–511 >>

(d)(1) If a teacher removes a student from class two (2) times during any nine-week grading period or its equivalent as determined by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the principal or the principal's designee may not return the student to the teacher's class unless a conference is held for the purpose of determining the causes of the problem and possible solutions, with the following individuals present:

SECTION 1541. Arkansas Code § 6–18–514(i), concerning antibullying policies, is amended to read as follows:

<< AR ST § 6–18–514 >>

(i) The school district shall provide the ~~Department of Education~~ **Division of Elementary and Secondary Education** with the website address at which a copy of the policies adopted in compliance with this section may be found.

SECTION 1542. The introductory language of Arkansas Code § 6–18–516(b)(1), concerning effective school discipline, is amended to read as follows:

<< AR ST § 6–18–516 >>

(b)(1) Annually, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall report at the school, school district, and state level the following data concerning exclusionary disciplinary actions, in-school suspensions, and corporal punishment:

SECTION 1543. The introductory language of Arkansas Code § 6–18–516(b)(2), concerning effective school discipline, is amended to read as follows:

<< AR ST § 6–18–516 >>

(2) The ~~department~~ **division** shall report exclusionary disciplinary actions by both:

SECTION 1544. Arkansas Code § 6–18–516(c), concerning effective school discipline, is amended to read as follows:

<< AR ST § 6–18–516 >>

(c) The ~~department~~ **division** shall report the data required in subsection (b) of this section:

(1) On the website of the ~~department~~ **division** to the extent that publication is consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; and

(2) In a manner that reflects historical trends and allows for the comparison of schools and school districts.

SECTION 1545. The introductory language of Arkansas Code § 6–18–516(d), concerning effective school discipline, is amended to read as follows:

<< AR ST § 6–18–516 >>

(d) The department **division** shall:

SECTION 1546. Arkansas Code § 6–18–516(e), concerning effective school discipline, is amended to read as follows:

<< AR ST § 6–18–516 >>

(e) The department **division**, or researcher identified by the department **division**, shall provide an annual report to the State Board of Education analyzing disciplinary infractions, disciplinary actions, and disciplinary disparities existing throughout the state.

SECTION 1547. Arkansas Code § 6–18–705(c), concerning the school breakfast program, is amended to read as follows:

<< AR ST § 6–18–705 >>

(c) The Department of Education **Division of Elementary and Secondary Education** may promulgate rules and regulations necessary for implementation of this section in compliance with federal guidelines.

SECTION 1548. Arkansas Code § 6–18–705(d)(2), concerning the school breakfast program, is amended to read as follows:

<< AR ST § 6–18–705 >>

(2) In any high school under the requirements of this section, if fifty percent (50%) or more of the eligible students refuse to participate in the school breakfast program during any year of the program as demonstrated by sufficient proof to the department **division**, the state board may grant a waiver from the requirements of this section to the high school.

SECTION 1549. Arkansas Code § 6–18–705(e), concerning the school breakfast program, is amended to read as follows:

<< AR ST § 6–18–705 >>

(e) The department **division** is hereby authorized to withhold state equalization aid from any school district that fails to comply with the provisions of this section.

SECTION 1550. Arkansas Code § 6–18–707(c)(1), concerning a prescription asthma inhaler or auto-injectable epinephrine, is amended to read as follows:

<< AR ST § 6–18–707 >>

(c)(1) The Department of Education **Division of Elementary and Secondary Education** shall develop guidelines for use in school districts that allow a student to carry and use an asthma inhaler or auto-injectable epinephrine, or both, while in school, at an on-site school-sponsored activity, or at an off-site school-sponsored activity.

SECTION 1551. Arkansas Code § 6–18–707(c)(2)(B)(iii), concerning a prescription asthma inhaler or auto-injectable epinephrine, is amended to read as follows:

<< AR ST § 6–18–707 >>

(iii) A copy of an individualized healthcare plan for the student prepared in accordance with § 6–18–1005 and any related rules of the ~~department~~ **division**.

SECTION 1552. Arkansas Code § 6–18–709(a)(2), concerning the Public School Health Services Advisory Committee, is amended to read as follows:

<< AR ST § 6–18–709 >>

(2) The ~~Director~~ **Secretary** of the Department of Health shall appoint:

- (A) One (1) member to represent the Department of Health;
- (B) One (1) member to represent the Arkansas State Board of Nursing;
- (C) One (1) member to represent the Arkansas Center for Health Improvement;
- (D) One (1) member to represent the Child and Adolescent Health Section of the Department of Health; and
- (E) One (1) member to represent the Office of Minority Health and Health Disparities of the Department of Health.

SECTION 1553. The introductory language of Arkansas Code § 6–18–709(a)(3), concerning the Public School Health Services Advisory Committee, is amended to read as follows:

<< AR ST § 6–18–709 >>

(3) The Commissioner of **Elementary and Secondary** Education shall appoint:

SECTION 1554. The introductory language of Arkansas Code § 6–18–709(a)(3)(A), concerning the Public School Health Services Advisory Committee, is amended to read as follows:

<< AR ST § 6–18–709 >>

(A) Six (6) members to represent the ~~Department of Education~~ **Division of Elementary and Secondary Education** as follows:

SECTION 1555. Arkansas Code § 6–18–709(a)(3)(G)(ii)(b), concerning the Public School Health Services Advisory Committee, is amended to read as follows:

<< AR ST § 6–18–709 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education**; or

SECTION 1556. Arkansas Code § 6–18–709(a)(9), concerning the Public School Health Services Advisory Committee, is amended to read as follows:

<< AR ST § 6–18–709 >>

(9) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide office space and staff for the Public School Health Services Advisory Committee.

SECTION 1557. Arkansas Code § 6–18–709(f), concerning the Public School Health Services Advisory Committee, is amended to read as follows:

<< AR ST § 6–18–709 >>

(f)(1) The Public School Health Services Advisory Committee shall identify the information it needs from public school districts and from nurses employed by public school districts to conduct the study and communicate those requests for information to the ~~Department of Education~~ **Division of Elementary and Secondary Education** in collaboration with the Department of Health.

(2)(A) Each public school nurse or individual designated by the public school shall report the information requested to the ~~Department of Education~~ **Division of Elementary and Secondary Education** and to the school board of directors not less than yearly.

(B) A school shall continue to report the information until the Public School Health Services Advisory Committee's term has expired.

(3) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide the information to the Public School Health Services Advisory Committee in a manner that protects student privacy under state and federal laws.

SECTION 1558. The introductory language of Arkansas Code § 6–18–709(g), concerning the Public School Health Advisory Committee, is amended to read as follows:

<< AR ST § 6–18–709 >>

(g) Annually, beginning on July 1, 2015, a school district shall report the following to the ~~Department of Education~~ **Division of Elementary and Secondary Education**:

SECTION 1559. Arkansas Code § 6–18–712(a), concerning posting the Child Abuse Hotline telephone number in public schools and open-enrollment charter schools, is amended to read as follows:

<< AR ST § 6–18–712 >>

(a) Each public school and open-enrollment charter school shall post a sign that contains the toll-free telephone number for the Child Abuse Hotline established by the Department of Human Services and the ~~Department~~ **Division** of Arkansas State Police under § 12–18–301.

SECTION 1560. Arkansas Code § 6-18-712(d), concerning posting the Child Abuse Hotline telephone number in public schools and open-enrollment charter schools, is amended to read as follows:

<< AR ST § 6-18-712 >>

(d)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall administer the requirements under this section.

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may adopt rules in compliance with this section to carry out the requirements under this section.

SECTION 1561. The introductory language of Arkansas Code § 6-18-713(b), concerning student sudden cardiac arrest education, is amended to read as follows:

<< AR ST § 6-18-713 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall develop guidelines and other relevant materials to inform and educate school officials, teachers, athletic coaches, students, and parents about the nature and warning signs of sudden cardiac arrest, including the risks associated with continuing to participate in or practice an athletic activity when experiencing any of the following symptoms:

SECTION 1562. Arkansas Code § 6-18-901(a), concerning the maintenance of permanent student records, is amended to read as follows:

<< AR ST § 6-18-901 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education**, at the direction of the State Board of Education and in cooperation with any other appropriate state agencies, shall develop and publish an itemized listing of all information to be maintained in a student's permanent record during enrollment in a school district in this state.

SECTION 1563. Arkansas Code § 6-18-901(d)(2), concerning the maintenance of permanent student records, is amended to read as follows:

<< AR ST § 6-18-901 >>

(2) Upon request by the Division of Youth Services of the Department of Human Services, a copy of the education record, as defined by regulations promulgated by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, shall be transmitted to the ~~division~~ **Division of Youth Services** within ten (10) school days.

SECTION 1564. Arkansas Code § 6-18-1004(a)(2), concerning a school district plan for student services, is amended to read as follows:

<< AR ST § 6-18-1004 >>

(2) Only those trained and certified in the appropriate specialty or following a ~~Department of Education's~~ **Division of Elementary and Secondary Education's** deficiency removal plan will be assigned to carry out the duties of each service.

SECTION 1565. Arkansas Code § 6–18–1007 is amended to read as follows:

<< AR ST § 6–18–1007 >>

6–18–1007. School student services status report.

(a) By January 1, 1994, and each year thereafter, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall compile and present to the Governor, the State Board of Education, the Senate Committee on Education, and the House Committee on Education a report outlining monitoring findings and the status of implementing each of the provisions of this subchapter by the various school districts, including which districts are in substantial compliance with the plan required under this subchapter.

(b)(1)(A) ~~By January 1, 1998, the department~~ **The division** shall have in place a staffing structure which assures that the ~~department's~~ **division's** administration and field service staff are responsible for monitoring the ~~department~~ **division** and local school district implementation and compliance with the provisions of this subchapter.

(B) The ~~department~~ **division** shall employ one (1) or more persons who shall have a minimum qualification of certification as a school counselor.

(2) Each school district shall be responsible for submitting an annual report to the Assistant Commissioner of Learning Services of the ~~Department of Education~~ **Division of Elementary and Secondary Education** outlining its compliance with and implementation of plans for the provisions of this section.

(3)(A) The Commissioner of **Elementary and Secondary** Education, in consultation with the appropriate assistant commissioner, shall designate an individual or individuals who shall have a minimum qualification of certification as a school counselor to be responsible for coordinating the monitoring of compliance with this section.

(B) The monitoring shall include interviews with administrators, counselors, students, and teachers.

SECTION 1566. Arkansas Code § 6–18–1008 is amended to read as follows:

<< AR ST § 6–18–1008 >>

6–18–1008. Implementation.

(a) The State Board of Education shall cause the Commissioner of **Elementary and Secondary** Education to designate one (1) employee who shall be responsible for overseeing the implementation of this subchapter.

(b) ~~By January 1, 1994, and each year thereafter, the Department of Education~~ **The Division of Elementary and Secondary Education** shall compile and present to the Governor, the state board, the House Committee on Education, and the Senate Committee on Education a report outlining the status of implementing each of the provisions of this subchapter by the various school districts.

SECTION 1567. Arkansas Code § 6–18–1104(b), concerning the procedure for participation in elementary school fundraising programs, is amended to read as follows:

<< AR ST § 6–18–1104 >>

(b) A one-page form for parental notification and permission shall be developed by the ~~Department of Education~~ **Division of Elementary and Secondary Education** in cooperation with school administrators and the Arkansas Parent Teacher Association.

SECTION 1568. Arkansas Code § 6–18–1302(4)(A), concerning the definition of “questionnaire or survey” under the Parental Authorization of Questionnaires Act, is amended to read as follows:

<< AR ST § 6–18–1302 >>

(4)(A) “Questionnaire or survey” means a list or group of questions, responses to which are provided to a person or an entity other than a public school, a public school district, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, or any branch of the United States ~~government~~ **Government**.

SECTION 1569. Arkansas Code § 6–18–1501(a)(1)(B)(i), concerning vision screenings, is amended to read as follows:

<< AR ST § 6–18–1501 >>

(B)(i) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall ensure the provision of all general revenues necessary to access federal funds for eye and vision screenings for all qualified federal healthcare program recipients.

SECTION 1570. The introductory language of Arkansas Code § 6–18–1501(b), concerning vision screenings, is amended to read as follows:

<< AR ST § 6–18–1501 >>

(b) An eye and vision screening shall include the following tests, procedures, equipment, and instruments approved by the Arkansas Commission on Eye and Vision Care of School–Age Children and the ~~department~~ **division**:

SECTION 1571. Arkansas Code § 6–18–1502(b)(1), concerning child eye exams, is amended to read as follows:

<< AR ST § 6–18–1502 >>

(b)(1) If a child does not receive an appropriate examination, as evidenced by a certificate signed by an optometrist or ophthalmologist acknowledging the examination, then the public school or public charter school where the child is registered shall report the child to the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1572. Arkansas Code § 6–18–1503(a), concerning standardized forms for eye and vision screening reports, is amended to read as follows:

<< AR ST § 6–18–1503 >>

(a) Standardized forms for eye and vision screening reports shall be developed by the ~~Department of Education~~ **Division of Elementary and Secondary Education** in conjunction with the Arkansas Commission on Eye and Vision Care of School–Age Children and adopted by the ~~department~~ **division** in regulations promulgated under the Arkansas Administrative Procedure Act, § 25–15–201 et seq.

SECTION 1573. Arkansas Code § 6–18–1504 is amended to read as follows:

<< AR ST § 6–18–1504 >>

6-18-1504. Training.

The ~~Department of Education~~ **Division of Elementary and Secondary Education**, in conjunction with the Arkansas Commission on Eye and Vision Care of School-Age Children, shall adopt regulations that establish standards for training school nurses to perform eye and vision screenings.

SECTION 1574. Arkansas Code § 6-18-1602(2)(B)(i), concerning the definition of “Smart Core” under the Universal ACT Assessment Program Act, is amended to read as follows:

<< AR ST § 6-18-1602 >>

(i) Established by rules of the state board in coordination with the ~~Department~~ **Division** of Higher Education; and

SECTION 1575. Arkansas Code § 6-18-1603 is amended to read as follows:

<< AR ST § 6-18-1603 >>

6-18-1603. Creation.

There is created in the ~~Department of Education~~ **Division of Elementary and Secondary Education** the Universal ACT Assessment Program to be developed, implemented, and administered by the ~~department~~ **division** as provided in this subchapter.

SECTION 1576. Arkansas Code § 6-18-1606(a), concerning implementation of the Universal ACT Assessment Program, is amended to read as follows:

<< AR ST § 6-18-1606 >>

(a) Beginning with the 2017-2018 school year, the Universal ACT Assessment Program may provide each student in grades nine (9), ten (10), eleven (11), or twelve (12) with the opportunity to take the ACT Assessment while in grades nine (9), ten (10), eleven (11), or twelve (12) without any charge by using school district funding, including National School Lunch Act funds, 42 U.S.C. § 1751 et seq., to pay for the exams as approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1577. Arkansas Code § 6-18-1607 is amended to read as follows:

<< AR ST § 6-18-1607 >>

6-18-1607. Rules.

The ~~Department~~ **Division** of Higher Education and the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall develop rules for the administration of this subchapter.

SECTION 1578. Arkansas Code § 6-18-1608 is amended to read as follows:

<< AR ST § 6-18-1608 >>

6-18-1608. Reporting.

The Department **Division** of Higher Education and the Department of Education **Division of Elementary and Secondary Education** shall submit a combined annual report to the Legislative Council by December 1 of each year that establishes compliance with this subchapter, provides data on the number of participants in the Universal ACT Assessment Program, and outlines the impact of this program on the college readiness of high school seniors and the remediation rates at institutions of higher education.

SECTION 1579. Arkansas Code § 6-18-1905(a)(2), concerning the application for a transferring student, is amended to read as follows:

<< AR ST § 6-18-1905 >>

(2) On a form approved by the Department of Education **Division of Elementary and Secondary Education**; and

SECTION 1580. Arkansas Code § 6-18-1906(a)(2), concerning the limitations of the Public School Choice Act of 2015, is amended to read as follows:

<< AR ST § 6-18-1906 >>

(2) Annually by January 1, a school district that claims a conflict under subdivision (a)(1) of this section shall submit proof from a federal court to the Department of Education **Division of Elementary and Secondary Education** that the school district has a genuine conflict under an active desegregation order or active court-approved desegregation plan that explicitly limits the transfer of students between school districts.

SECTION 1581. Arkansas Code § 6-18-1906(a)(4)-(6), concerning the limitations of the Public School Choice Act of 2015, are amended to read as follows:

<< AR ST § 6-18-1906 >>

(4)(A) Within thirty (30) calendar days of receipt of proof under subdivision (a)(2) of this section, the department **division** shall notify the school district whether it is required to participate in the school choice provisions of this subchapter.

(B) The department **division** may reject incomplete submissions.

(C) If the department **division** does not provide a written exemption to the school district, then the school district shall be required to participate in the school choice provisions of this subchapter.

(5) The department **division** shall maintain on its website a list of school districts that are not required to participate in the school choice provisions of this subchapter.

(6) The State Board of Education may review a decision of the department **division** upon written petition of the affected school district and may affirm or reverse the decision of the department **division** under the rules promulgated by the state board to implement this subsection.

SECTION 1582. Arkansas Code § 6-18-1906(b)(2), concerning the limitations of the Public School Choice Act of 2015, is amended to read as follows:

<< AR ST § 6-18-1906 >>

(2) Annually by December 15, the ~~department~~ **division** shall report to each school district the net maximum number of school choice transfers for the next school year.

SECTION 1583. Arkansas Code § 6-19-102(d), concerning the authority to transport students and vehicles, is amended to read as follows:

<< AR ST § 6-19-102 >>

(d) A bus or other vehicle used in transporting pupils in one (1) district shall not be used to transport pupils in another district without the consent of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, except as specifically allowed by law.

SECTION 1584. Arkansas Code § 6-20-106 is amended to read as follows:

<< AR ST § 6-20-106 >>

6-20-106. Amendment 74 rules and regulations.

Due to pending public school finance litigation, before any rules and regulations pursuant to the implementation of Arkansas Constitution, Amendment 74, are reviewed by the Administrative Rules and Regulations Subcommittee of the Legislative Council and adopted by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, such proposed rules and regulations shall be reviewed by the Litigation Reports Oversight Subcommittee of the Legislative Council.

SECTION 1585. The introductory language of Arkansas Code § 6-20-107(b), concerning educational cost reimbursement prohibition, is amended to read as follows:

<< AR ST § 6-20-107 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education**, a public school district, or an open-enrollment public charter school shall not be liable for any educational costs or other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

SECTION 1586. The introductory language of Arkansas Code § 6-20-107(b)(2), concerning educational cost reimbursement prohibition, is amended to read as follows:

<< AR ST § 6-20-107 >>

(2) The ~~department~~ **division** authorizes public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the ~~department~~ **division** has approved the facility's educational program; and

SECTION 1587. The introductory language of Arkansas Code § 6-20-107(b)(3)(B), concerning educational cost reimbursement prohibition, is amended to read as follows:

<< AR ST § 6-20-107 >>

(B) If the educational program is not authorized before placement, the ~~department~~ **division**, public school districts, or open-enrollment public charter schools shall not be responsible for education or other related costs, nor shall they be subject to any order to pay for educational or other related costs.

SECTION 1588. Arkansas Code § 6-20-107(c)-(f), concerning educational cost reimbursement prohibition, are amended to read as follows:

<< AR ST § 6-20-107 >>

(c) The ~~department~~ **division**, a public school district, or an open-enrollment public charter school shall not be liable for any educational costs or other related costs associated with the placement of a juvenile in an in-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

(1) The ~~department~~ **division** authorizes public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the ~~department~~ **division** has approved the facility's educational program; and

(2)(A) Each educational program authorization precedes the placement.

(B) If the educational program is not authorized before the placement, the ~~department~~ **division**, public school districts, or open-enrollment public charter schools shall not be responsible for education or other related costs, nor shall they be subject to any order to pay for educational or other related costs.

(d) The liability of the ~~department~~ **division**, a public school district, or an open-enrollment public charter school for the educational costs or other related costs described in subsections (b) and (c) of this section shall be limited to the lesser of:

(1) The reimbursement rate established by the ~~department~~ **division** for a juvenile placed in a residential or inpatient facility; or

(2) The normal and customary educational cost reimbursement rate of the state in which a juvenile is placed in an out-of-state residential or inpatient facility as determined by the ~~department~~ **division**.

(e) This section shall not apply to a juvenile placed in an Arkansas juvenile detention facility as defined in § 6-20-104.

(f) Nothing in this section shall be construed to require payment by the ~~department~~ **division**, a public school district, or an open-enrollment public charter school for educational costs and other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care or treatment, including psychiatric treatment, before April 7, 2005.

SECTION 1589. Arkansas Code § 6-20-210 is amended to read as follows:

<< AR ST § 6-20-210 >>

6-20-210. Pulaski County desegregation.

(a) For the fiscal year ending June 30, 2004, and for each fiscal year thereafter, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall, from time to time as needed, certify to the Treasurer of State and the Chief

Fiscal Officer of the State the amount of funds disbursed or approved to be disbursed by the department **division** for desegregation expenses under the Pulaski County School Desegregation Settlement Agreement.

(b) Upon the receipt of the certification and after making those deductions as set out in § 19–5–202(b)(2)(B), the Treasurer of State shall also deduct from the net general revenues the amount certified and transfer this amount to the ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account, there to be used exclusively for payment of or reimbursement for expenses incurred from the ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account under the agreement.

SECTION 1590. Arkansas Code § 6–20–212 is amended to read as follows:

<< AR ST § 6–20–212 >>

6–20–212. Desegregation expenses.

(a) For the fiscal year ending June 30, 2005, and for each fiscal year thereafter, the Department of Education **The Division of Elementary and Secondary Education** shall from time to time, as needed, certify to the Treasurer of State and the Chief Fiscal Officer of the State, the amount of funds disbursed or approved to be disbursed by the ~~department~~ **division** for desegregation expenses under any desegregation settlement agreement.

(b) Upon the receipt of the certification, the Treasurer of State, after making those deductions as set out in § 19–5–202(b)(2)(B), shall also deduct from the net general revenues the amount certified and transfer this amount to the ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account, there to be used exclusively for payment of or reimbursement for expenses incurred from the account under any desegregation settlement agreement.

SECTION 1591. Arkansas Code § 6–20–223(b), concerning noncredit remedial courses, is amended to read as follows:

<< AR ST § 6–20–223 >>

(b) Nothing in this section shall be interpreted as authorizing a state-supported institution to receive direct payments from the ~~Department of Education~~ **Division of Elementary and Secondary Education** or from a school district for noncredit remedial courses taken by a student.

SECTION 1592. Arkansas Code § 6–20–224 is amended to read as follows:

<< AR ST § 6–20–224 >>

6–20–224. Federal turnback funds.

Any federal mineral leasing funds, federal forest reserve funds, federal flood control funds, or any similar turnback funds in the State Treasury for which the eligible county or school district cannot be identified may be transferred to the ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account and used for any lawful school purpose.

SECTION 1593. Arkansas Code § 6–20–402(b)(4), concerning a limitation on current indebtedness, postdated warrants and installment contracts, and liability, is amended to read as follows:

<< AR ST § 6–20–402 >>

(4) A copy of any guaranteed energy savings contract that is executed in connection with the acquisition, installation, or construction of energy conservation measures under this section shall be filed with the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1594. Arkansas Code § 6-20-402(c)(1)(E), concerning a limitation on current indebtedness, postdated warrants and installment contracts, and liability, is amended to read as follows:

<< AR ST § 6-20-402 >>

(E) The school district obtains the prior written approval of the ~~department~~ **division** to refinance one (1) or more outstanding postdated warrants, lease-purchase agreements, or installment contracts.

SECTION 1595. The introductory language of Arkansas Code § 6-20-402(d)(6), concerning a limitation on current indebtedness, postdated warrants and installment contracts, and liability, is amended to read as follows:

<< AR ST § 6-20-402 >>

(6) Upon incurring current indebtedness, the school district shall notify the ~~department~~ **division** of the indebtedness, on forms provided by the ~~department~~ **division**, showing the:

SECTION 1596. Arkansas Code § 6-20-402(e)(2)(A)(ii), concerning a limitation on current indebtedness, postdated warrants and installment contracts, and liability, is amended to read as follows:

<< AR ST § 6-20-402 >>

(ii) Submits a written request for payment of the amount of the unpaid judgment and a certified copy of the final judgment to the Commissioner of **Elementary and Secondary** Education and the superintendent of the school district.

SECTION 1597. Arkansas Code § 6-20-402(f), concerning a limitation on current indebtedness, postdated warrants and installment contracts, and liability, is amended to read as follows:

<< AR ST § 6-20-402 >>

(f) If the state board withholds state aid from a school district under subsection (e) of this section, the school district shall be identified by the ~~department~~ **division** to be a school district in fiscal distress under § 6-20-1906.

SECTION 1598. The introductory language of Arkansas Code § 6-20-415(a), concerning the hiring of public school district desegregation consultants, is amended to read as follows:

<< AR ST § 6-20-415 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** in consultation with the Attorney General shall hire consultants on the following basis:

SECTION 1599. Arkansas Code § 6–20–415(b) and (c), concerning the hiring of public school district desegregation consultants, are amended to read as follows:

<< AR ST § 6–20–415 >>

(b) The ~~department~~ **division** shall not pay the consultant fees or expenses from moneys appropriated and available for the reimbursement of attorney's fees to the three (3) Pulaski County school districts under § 6–20–416.

(c)(1) The ~~department~~ **division** and the Attorney General also may hire consultants with expertise in the fields of auditing and forensic accounting to provide oversight and management of the three (3) Pulaski County school districts' finances with an emphasis on desegregation funding.

(2) The consultants hired by the ~~department~~ **division** and the Attorney General shall have full authority to examine any documents and software and shall be allowed full access to any persons necessary to discharge the consultants' duties as directed by the ~~department~~ **division** and the Attorney General.

(3) In addition to the authority otherwise granted to the State Board of Education and the ~~department~~ **division** by law, the ~~department~~ **division** may require a school district to modify, update, or change the school district's financial oversight or management policies, procedures, or practices in response to the recommendations of the consultants.

(4) A school district that fails to comply with the requirements of the ~~department~~ **division** under this subsection shall be identified by the ~~department~~ **division** as being in fiscal distress and subject to the applicable enforcement provisions as provided by law.

SECTION 1600. Arkansas Code § 6–20–416(a), concerning desegregation funding, is amended to read as follows:

<< AR ST § 6–20–416 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Attorney General are authorized to seek proper federal court review and determination of the current unitary status of any school district in the case of Little Rock School District v. Pulaski County Special School District No. 1, et al., No. LR–C–82–866.

SECTION 1601. The introductory language of Arkansas Code § 6–20–416(b)(1), concerning desegregation funding, is amended to read as follows:

<< AR ST § 6–20–416 >>

(b)(1) ~~Upon July 31, 2007, the department~~ **The division** and the Attorney General are authorized to seek modification of the current consent decree or enter into a new or an amended consent decree or settlement agreement under this section that allows the State of Arkansas to:

SECTION 1602. Arkansas Code § 6–20–416(c)(1), concerning desegregation funding, is amended to read as follows:

<< AR ST § 6–20–416 >>

(c)(1) The ~~department~~ **division** in consultation with the Attorney General shall have the authority to enter into agreements with the three (3) Pulaski County school districts to reimburse the school districts for legal fees incurred for seeking unitary status or partial unitary status.

SECTION 1603. Arkansas Code § 6–20–416(e), concerning desegregation funding, is amended to read as follows:

<< AR ST § 6–20–416 >>

(e)(1) A school district receiving state funds under a federal court order or a settlement agreement in desegregation litigation shall categorize and describe the state funds received and any expenditure of those funds according to the uniform chart of accounts and codes established by the ~~department~~ **division**.

(2) The ~~department~~ **division** shall modify, as necessary, the Arkansas Financial Accounting Handbook or the Arkansas Educational Financial Accounting and Reporting System, or both, to ensure that the uniform chart of accounts and codes is available to accurately monitor:

(A) State funding paid to a school district under the federal court order or settlement agreement; and

(B) All expenditures of that funding.

(3) An error related to the coding and reporting of the state funds that causes a material misstatement of financial information is cause for determining a deficiency under the ~~Department of Education~~ **Division of Elementary and Secondary Education** Rules Governing the Arkansas Financial Accounting and Reporting System and Annual Training Requirements.

SECTION 1604. The introductory language of Arkansas Code § 6–20–416(f), concerning desegregation funding, is amended to read as follows:

<< AR ST § 6–20–416 >>

(f) By September 1 of each year, a school district that receives state funding pursuant to a federal court order or settlement agreement in desegregation litigation shall report to the ~~department~~ **division**, in the form and manner established by the ~~department~~ **division**, the following:

SECTION 1605. Arkansas Code § 6–20–416(f)(2)(F), concerning desegregation funding, is amended to read as follows:

<< AR ST § 6–20–416 >>

(F) Any other pertinent information as determined by the ~~department~~ **division**;

SECTION 1606. Arkansas Code § 6–20–416(f)(3)(D), concerning desegregation funding, is amended to read as follows:

<< AR ST § 6–20–416 >>

(D) The ~~department~~ **division** may determine additional guidelines regarding the necessary level of specificity;

SECTION 1607. Arkansas Code § 6–20–416(g) and (h), concerning desegregation funding, are amended to read as follows:

<< AR ST § 6–20–416 >>

(g)(1) A school district not utilizing the Arkansas Public School Computer Network shall provide the ~~department~~ **division** and the Attorney General, or their designees, full and complete, real-time access to the accounting and school district financial management software utilized by the school district.

(2) A school district may satisfy the obligation under subdivision (g)(1) of this section by converting to the Arkansas Public School Computer Network, but the school district still shall provide the ~~department~~ **division** and the Attorney General, or their designees, with full and complete access to the prior financial management system.

(h) This section shall not:

(1) Force entry of a consent decree or settlement agreement by the ~~department~~ **division** or the Attorney General with the three (3) Pulaski County school districts; or

(2) Protect any school district from action or sanction by the ~~department~~ **division** for fiscal, academic, or facilities distress.

SECTION 1608. Arkansas Code § 6–20–504(b)(3) and (4), concerning children living in foster homes, are amended to read as follows:

<< AR ST § 6–20–504 >>

(3) If the school district to which the request is made fails or refuses to pay the requested funds to the requesting school district within thirty (30) days after receiving the request, the requesting school district may notify the ~~Department of Education~~ **Division of Elementary and Secondary Education** of the fact, and the ~~department~~ **division** shall investigate the facts of the request and the refusal to remit payment.

(4) If the ~~department~~ **division** determines that the funds requested were due the requesting school district as provided in this section, the ~~department~~ **division** shall notify the school districts involved of the determination and shall withhold the amount thereof from the next state aid funds available for distribution to the school district that failed or refused to remit the funds as provided in this subchapter and shall pay the amount over to the requesting school district as provided in this section, to be used for the education of the child living in a foster home who is a student in the school district during the current school year.

SECTION 1609. Arkansas Code § 6–20–510 is amended to read as follows:

<< AR ST § 6–20–510 >>

6–20–510. Confidentiality of records.

All files and records that are required by the laws of this state or under the provisions of applicable federal laws or regulations to be kept confidential and all court orders pertaining to the confidentiality of records or prohibiting or limiting the disclosure thereof pertaining to a child living in a foster home or a child with disabilities under the provisions of this subchapter shall be strictly complied with by the respective school districts and by the ~~Department of Education~~ **Division of Elementary and Secondary Education** in all correspondence and transactions pertaining to the administration of the provisions of this subchapter.

SECTION 1610. Arkansas Code § 6–20–601(b)(1), concerning the qualifications for schools to receive isolated school district funding, is amended to read as follows:

<< AR ST § 6-20-601 >>

(1) The school district's budget is prepared by the school district with ~~Department of Education~~ **Division of Elementary and Secondary Education** approval;

SECTION 1611. Arkansas Code § 6-20-602(b)(2)(D)(ii), concerning isolated schools, is amended to read as follows:

<< AR ST § 6-20-602 >>

(ii) This section shall not be construed to restrict the authority of the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the state board otherwise granted by law.

SECTION 1612. Arkansas Code § 6-20-603(f) and (g), concerning the continued support of isolated school districts, is amended to read as follows:

<< AR ST § 6-20-603 >>

(f) For the purposes of this section, school districts with isolated school areas shall account for the average daily membership of all schools located in the isolated school areas as required by the ~~Department of Education~~ **Division of Elementary and Secondary Education** and shall submit reports as required by the ~~department~~ **division**.

(g) The ~~Department~~ **division** shall distribute isolated funding under this section in two (2) payments per school year.

SECTION 1613. Arkansas Code § 6-20-709(c), concerning school lunch menus, is amended to read as follows:

<< AR ST § 6-20-709 >>

(c) The Child Health Advisory Committee, the Child Nutrition Unit of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and the Department of Health shall provide technical assistance as necessary.

SECTION 1614. Arkansas Code § 6-20-801(c)(1), concerning the continuance of the Revolving Loan Fund, is amended to read as follows:

<< AR ST § 6-20-801 >>

(1) To pay expenses of the operation of the revolving loan program administered by the state board and the ~~Department of Education~~ **Division of Elementary and Secondary Education**; and

SECTION 1615. Arkansas Code § 6-20-1204(c)(1), concerning form of bonds and security, is amended to read as follows:

<< AR ST § 6-20-1204 >>

(c)(1) As additional security for the payment of any bond of a school district, the Commissioner of **Elementary and Secondary Education** shall cure a delinquency in payment by withholding state funding due the district.

SECTION 1616. Arkansas Code § 6–20–1204(c)(3), concerning form of bonds and security, is amended to read as follows:

<< AR ST § 6–20–1204 >>

(3) If the commissioner withholds state funding from a school district pursuant to this subsection, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall identify the school district to be a school district in fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6–20–1901 et seq.

SECTION 1617. Arkansas Code § 6–20–1204(d)(3), concerning form of bonds and security, is amended to read as follows:

<< AR ST § 6–20–1204 >>

(3)(A) If the designated paying agent does not receive the bond payment from the district at least five (5) calendar days before the date the payment is due under the authorizing documents, the ~~department~~ **division** immediately shall cure any deficiency in payment by making payment in the full amount of the deficiency to the designated paying agent.

(B) If the commissioner determines that payment has been made by the school district and that a payment deficiency does not exist, the ~~department~~ **division** shall not make the payment under subdivision (d)(3)(A) of this section.

(C) If the ~~department~~ **division** makes payment under subdivision (d)(3)(A) of this section, it may identify the school district on behalf of which the payment is made to be a school district in fiscal distress under the program.

(D)(i) If the ~~department~~ **division** makes payment under subdivision (d)(3)(A) of this section, a school district shall be indebted to the ~~department~~ **division** in the full amount paid by the ~~department~~ **division** and immediately shall remit the full amount to the ~~department~~ **division**.

(ii) If a school district does not remit the full amount to the ~~department~~ **division** under subdivision (d)(3)(D)(i) of this section, the ~~department~~ **division** shall withhold from the school district the next distribution of state funding in an amount sufficient to reimburse the ~~department~~ **division** for the payment.

(iii) In the event that the amount of state funding next due to be distributed to the school district is not sufficient to reimburse the ~~department~~ **division**, the ~~department~~ **division** shall continue to withhold state funding due to the school district until the ~~department~~ **division** is fully reimbursed.

(iv) If the commissioner determines that payment has been made to the ~~department~~ **division** by the school district and that the obligation of the school district to the ~~department~~ **division** no longer exists, the ~~department~~ **division** shall not withhold from the school district the distribution of state funding under subdivisions (d)(3)(D)(ii) and (iii) of this section.

SECTION 1618. Arkansas Code § 6–20–1205(a)(1), concerning the submission of a statement prior to issuing bonds and approval, is amended to read as follows:

<< AR ST § 6–20–1205 >>

(1) Shall furnish to the Commissioner of **Elementary and Secondary** Education a statement of the amount proposed to be borrowed and of the maturity of the indebtedness, a financial statement of the affairs of the school district, and a certificate from the county clerk showing the then-assessed valuation of the real, personal, and utility property in the school district; and

SECTION 1619. Arkansas Code § 6–20–1205(c), concerning the submission of a statement prior to issuing bonds and approval, is amended to read as follows:

<< AR ST § 6–20–1205 >>

(c) The ~~Department of Education~~ **Division of Elementary and Secondary Education** is authorized to adopt procedural rules and regulations to enforce the provisions of this section.

SECTION 1620. Arkansas Code § 6–20–1216(a), concerning the authority to use refunding bonds, is amended to read as follows:

<< AR ST § 6–20–1216 >>

(a) Any school district of Arkansas shall have the right, subject to procedural rules and regulations adopted by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, to refund its bonds outstanding at any time. Any ~~department~~ **division** rule or regulation that would prevent or delay a school district from refunding outstanding bonds may be waived by the Commissioner of **Elementary and Secondary** Education or the commissioner's designee provided that the commissioner or the commissioner's designee determines that it is in the best interest of the school district to proceed with the refunding immediately.

SECTION 1621. Arkansas Code § 6–20–1218(a), concerning refunding bonds, maximum amounts, and conversion and sale, is amended to read as follows:

<< AR ST § 6–20–1218 >>

(a) When the refunding bonds are issued to be exchanged for outstanding bonds, it shall not be necessary to advertise them for sale, but they may be executed and delivered to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and the Commissioner of **Elementary and Secondary** Education shall, from time to time, as outstanding bonds are presented to him or her for exchange, certify and deliver refunding bonds in face value of the same proportion of the total face value of the refunding bond issue that the face value of the surrendered bonds bears to the total face value of the outstanding bonds to be refunded.

SECTION 1622. Arkansas Code § 6–20–1223(a)(3), concerning the refunding of bonds and issuance without election, is amended to read as follows:

<< AR ST § 6–20–1223 >>

(3) The issue has been approved by the Commissioner of **Elementary and Secondary** Education or the commissioner's designee subject to ~~Department of Education~~ **Division of Elementary and Secondary Education** rules and regulations.

SECTION 1623. Arkansas Code § 6–20–1801 is amended to read as follows:

<< AR ST § 6–20–1801 >>

6–20–1801. Filing of audit reports.

(a)(1) Unless a shorter period is prescribed by law or regulation, all school districts' annual audits not conducted by Arkansas Legislative Audit shall be completed and filed with the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Arkansas Legislative Audit within nine (9) months following the end of each fiscal year.

(2) At the request of the school district, the ~~department~~ **Division of Elementary and Secondary Education** may grant an extension of up to ninety (90) days on the deadline under this subsection.

(b)(1) All school district contracts for audit services with private certified public accountants shall contain a provision requiring completion of the audit and filing of the audit reports by the auditor with the ~~department~~ **Division of Elementary and Secondary Education** and Arkansas Legislative Audit within nine (9) months following the end of each fiscal year.

(2) At the request of the school district, the ~~department~~ **Division of Elementary and Secondary Education** may grant an extension of up to ninety (90) days on the deadline under this subsection.

(c) Arkansas Legislative Audit shall annually provide the ~~department~~ **Division of Elementary and Secondary Education** a list of school districts audited by Arkansas Legislative Audit and update the ~~department~~ **Division of Elementary and Secondary Education** on any changes throughout the year.

(d)(1) If the ~~department~~ **Division of Elementary and Secondary Education** has identified a school as being in fiscal distress by June 30 of any year, the annual audit of that school district shall be completed and filed with the ~~department~~ **Division of Elementary and Secondary Education** and the Legislative Joint Auditing Committee within six (6) months following the end of each fiscal year.

(2) If the committee determines that circumstances warrant, the committee may extend the time to file the audit report of a fiscally distressed school district up to an additional ninety (90) days.

SECTION 1624. Arkansas Code § 6–20–1802 is amended to read as follows:

<< AR ST § 6–20–1802 >>

6–20–1802. Fiscal distress for failure to file.

(a) Any school district failing to file an audit report required by § 6–20–1801 within the nine-month time period or within the time period under any extension granted by the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall automatically be considered by the ~~department~~ **division** to be in fiscal distress.

(b) By January 31 of each year, the ~~department~~ **division**, by certified mail, shall notify any school district failing to file the required audit report that the school district is considered in fiscal distress.

SECTION 1625. Arkansas Code § 6–20–1803(a), concerning questionable audit reports, is amended to read as follows:

<< AR ST § 6–20–1803 >>

(a) If the ~~Department of Education~~ **Division of Elementary and Secondary Education** or the Legislative Joint Auditing Committee is concerned that a particular audit may be substandard or seriously questionable with respect to applicable professional auditing standards, the ~~department~~ **division** or the committee may file a complaint on the audit report to the Arkansas State Board of Public Accountancy.

SECTION 1626. Arkansas Code § 6–20–1804 is amended to read as follows:

<< AR ST § 6–20–1804 >>

6–20–1804. List of ineligible accountants.

(a) The Department of Education **Division of Elementary and Secondary Education** shall maintain a list of accountants or accounting firms ineligible to conduct school district audits. Accountants or accounting firms placed on the ineligibility list by the department **Division of Elementary and Secondary Education** shall be ineligible to conduct school audits for a period determined by the department **Division of Elementary and Secondary Education** but which shall not exceed a five-year period from the end of the fiscal year for which the audit report was contracted to be prepared.

(b) Before entering into contracts for audit services, school districts shall inquire with the department **Division of Elementary and Secondary Education** which accountants are ineligible to conduct public school audits.

(c) The department **Division of Elementary and Secondary Education** may place accountants or accounting firms on the ineligibility list for any of the following reasons:

(1) If, in the opinion of the department **Division of Elementary and Secondary Education** or the Legislative Joint Auditing Committee, a school district audit report is not filed within the nine-month time period or within the time period under any extension granted by the department **Division of Elementary and Secondary Education** with the department **Division of Elementary and Secondary Education** and Arkansas Legislative Audit as required by § 6–20–1801 because of neglect or fault of the certified public accountant or accounting firm;

(2) If the Quality Review Committee of the Arkansas State Board of Public Accountancy reports to the department **Division of Elementary and Secondary Education** and the Legislative Joint Auditing Committee that a school district audit report shows evidence of lack of general conformity with applicable professional standards or state laws and regulations or evidence that the report is substandard or seriously questionable; or

(3) Any other compelling reason that the department **Division of Elementary and Secondary Education** believes justifies placing the accountant or accounting firm on the ineligibility list.

SECTION 1627. Arkansas Code § 6–20–1902 is amended to read as follows:

<< AR ST § 6–20–1902 >>

6–20–1902. Purpose.

The purpose of this subchapter shall be to establish and implement a program by which the Department of Education **Division of Elementary and Secondary Education** shall identify, assess, and address school districts in fiscal distress.

SECTION 1628. Arkansas Code § 6–20–1903(3), concerning definition of “department” in the Arkansas Fiscal Assessment and Accountability Program, is repealed.

<< AR ST § 6–20–1903 >>

(3) “Department” means the Department of Education;

SECTION 1629. Arkansas Code § 6–20–1903(4), concerning the Arkansas Fiscal Assessment and Accountability Program, is amended to read as follows:

<< AR ST § 6–20–1903 >>

(4) “Fiscal distress status” means a public school district determined by the department **Division of Elementary and Secondary Education** and classified by the State Board of Education as being placed in fiscal distress status pursuant to this subchapter;

SECTION 1630. The introductory language of Arkansas Code § 6–20–1904(a), concerning the indicators of fiscal distress, is amended to read as follows:

<< AR ST § 6–20–1904 >>

(a) A school district meeting any of the following criteria may be identified by the Department of Education **Division of Elementary and Secondary Education** to be a school district in fiscal distress upon final approval by the State Board of Education:

SECTION 1631. Arkansas Code § 6–20–1904(a)(2)(E), concerning the indicators of fiscal distress, is amended to read as follows:

<< AR ST § 6–20–1904 >>

(E) Material failure to provide timely and accurate legally required financial reports to the department **division**, Arkansas Legislative Audit, the General Assembly, or the Internal Revenue Service;

SECTION 1632. Arkansas Code § 6–20–1904(b), concerning the indicators of fiscal distress, is amended to read as follows:

<< AR ST § 6–20–1904 >>

(b)(1) By August 31 of each year, the department **division** shall report to the superintendent of a school district if the department **division** is aware that the school district has experienced two (2) or more indicators of fiscal distress in one (1) school year that the department **division** deems to be at a nonmaterial level but that without intervention could place the district in fiscal distress.

(2) The superintendent of a school district shall report to the department **division** if the superintendent is aware the school district has experienced two (2) or more indicators of fiscal distress in one (1) school year that the superintendent deems to be at a nonmaterial level but that without intervention could place the district in fiscal distress.

(3)(A) The department **division** and the superintendent shall review all data related to the nonmaterial indicators of fiscal distress.

(B)(i) Within thirty (30) days of the department's **division's** determination that the school district may be experiencing fiscal distress at a nonmaterial level, the department **division** shall provide a notice to the school district's superintendent and board of directors that:

(a) Describes the nonmaterial indicators of fiscal distress that could jeopardize the fiscal integrity of the school district if not addressed; and

(b) Identifies the support available from the department **division** to address each nonmaterial indicator of fiscal distress.

(ii) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of nonmaterial indicators of fiscal distress.

SECTION 1633. Arkansas Code § 6–20–1905 is amended to read as follows:

<< AR ST § 6–20–1905 >>

6–20–1905. Notification and appeal.

(a)(1)(A)(i) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide written notice, via certified mail, return receipt requested, to the president of the school district board of directors and the superintendent of each school district identified as being in fiscal distress.

(ii) The ~~department~~ **division** shall provide the notice required under this subdivision (a)(1)(A) on or before March 30 of each year.

(B)(i) At any time after March 30, the ~~department~~ **division** may identify a school district as being in fiscal distress if the ~~department~~ **division** discovers that a fiscal condition of a school district negatively impacts the continuation of educational services by the school district.

(ii) The ~~department~~ **division** immediately shall provide the same notice required under subdivision (a)(1)(A) (i) to the school district identified under this subdivision (a)(1)(B).

(b) Any school district identified in fiscal distress status may appeal to the State Board of Education by filing a written appeal with the office of the Commissioner of **Elementary and Secondary** Education by certified mail, return receipt requested, within thirty (30) days of receipt of notice of identified fiscal distress status from the ~~department~~ **division**.

(c) The state board shall hear the appeal within sixty (60) days of receipt of the written notice of appeal from the school district.

(d) The written appeal shall state in clear terms the reason why the school district should not be classified as in fiscal distress.

(e) Notwithstanding any appeal rights in this subchapter, no appeal shall stay the ~~department's~~ **division's** authority to take action to protect the fiscal integrity of any school district identified as in fiscal distress.

(f) The decision of the state board shall be a final order, and there is no further right of appeal except that the school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25–15–201 et seq.

SECTION 1634. Arkansas Code § 6–20–1906(a), concerning the classification of fiscal distress status, is amended to read as follows:

<< AR ST § 6–20–1906 >>

(a) Those school districts identified by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as being in fiscal distress shall be classified as school districts in fiscal distress upon final determination by the State Board of Education.

SECTION 1635. Arkansas Code § 6–20–1907 is amended to read as follows:

<< AR ST § 6–20–1907 >>

6–20–1907. Debt issuance.

No school district identified in fiscal distress may incur any debt without the prior written approval of the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1636. Arkansas Code § 6–20–1908 is amended to read as follows:

<< AR ST § 6–20–1908 >>

6–20–1908. Fiscal distress plan.

(a) Those school districts identified by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as being in fiscal distress shall file with the ~~department~~ **division** within ten (10) days after the final classification by the State Board of Education a written fiscal distress improvement plan to address any area in which the school district is experiencing fiscal distress as identified by the ~~department~~ **division**.

(b) Each school district shall seek and obtain approval of its plan from the ~~department~~ **division** and shall describe how the school district will remedy those areas in which the school district is experiencing fiscal distress and shall establish the time period by which the school district will remedy all criteria which placed the school district in fiscal distress status.

(c) A school district in fiscal distress may only petition the state board for removal from fiscal distress status after the ~~department~~ **division** has certified in writing that the school district has corrected all criteria for being classified as in fiscal distress and has complied with all ~~department~~ **division** recommendations and requirements for removal from fiscal distress.

(d) Except under § 6–20–1910(e), a school district shall not be allowed to remain in fiscal distress status for more than five (5) consecutive school years from the date that the school district was classified as being in fiscal distress status.

(e) Any school district classified as being in fiscal distress status shall be required to receive on-site technical evaluation and assistance from the ~~department~~ **division**.

(f)(1) The ~~department~~ **division** shall evaluate and make written recommendations to the district superintendent regarding staffing of the school district and fiscal practices of the school district.

(2) The written recommendations of the ~~department~~ **division** shall be binding on the school district, the superintendent, and the school district board of directors.

(g) Every six (6) months, the ~~department~~ **division** shall submit a written evaluation on the status of each school district in fiscal distress to the state board.

(h)(1) The ~~department~~ **division** may petition the state board at any time for the consolidation, annexation, or reconstitution of a school district in fiscal distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interests of students in the school district.

(2) The state board may approve the petition or take other appropriate action as allowed by this subchapter.

(i) Except under § 6–20–1910(e), the state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in fiscal distress within five (5) consecutive school years of classification of fiscal distress status unless the state board, at its discretion, issues a written finding supported by a majority of the state board, explaining in detail that the school district could not remove itself from fiscal distress due to impossibility caused by external forces beyond the school district's control.

SECTION 1637. The introductory language of Arkansas Code § 6–20–1909(a), concerning the Department of Education fiscal distress actions, is amended to read as follows:

<< AR ST § 6–20–1909 >>

(a) In addressing school districts in fiscal distress, the Commissioner of **Elementary and Secondary** Education may:

SECTION 1638. Arkansas Code § 6–20–1909(a)(1)(B), concerning the Department of Education fiscal distress actions, is amended to read as follows:

<< AR ST § 6–20–1909 >>

(B) Compensate ~~nondepartment~~ **nondivision** agents operating the school district from school district funding;

SECTION 1639. Arkansas Code § 6–20–1909(a)(7)(A)(i), concerning the Department of Education fiscal distress actions, is amended to read as follows:

<< AR ST § 6–20–1909 >>

(i) The ~~Department of Education~~ **Division of Elementary and Secondary Education** certifies in writing to the state board and to the school district that the school district has corrected all issues that caused the classification of fiscal distress; and

SECTION 1640. Arkansas Code § 6–20–1909(b)–(d), concerning the Department of Education fiscal distress actions, are amended to read as follows:

<< AR ST § 6–20–1909 >>

(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 1641. 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:

<< AR ST § 6–20–1910 >>

(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 1642. 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:

<< AR ST § 6–20–1910 >>

(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 1643. 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:

<< AR ST § 6–20–1910 >>

(a) The ~~d~~⁶ ~~epartment~~ **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

SECTION 1644. Arkansas Code § 6–20–1910(f), concerning state board actions to consolidate, annex, or reconstitute a school district, is amended to read as follows:

<< AR ST § 6–20–1910 >>

(f) Nothing in this section shall be construed to prevent the ~~department~~ **division** or the state board from taking any of the actions listed in § 6–20–1909 or this section at any time to address a school district in fiscal distress.

SECTION 1645. Arkansas Code § 6–20–1911 is amended to read as follows:

<< AR ST § 6–20–1911 >>

6–20–1911. Rules and regulations.

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promulgate rules and regulations as necessary to identify, evaluate, assist, and address school districts in fiscal distress.

(b) The ~~department~~ **division** may promulgate rules and regulations as necessary to administer this subchapter.

SECTION 1646. Arkansas Code § 6–20–2002(2), concerning the definition of “classroom teacher” under the laws regarding tracking and accounting of interschool athletic program funds, is amended to read as follows:

<< AR ST § 6-20-2002 >>

(2) “Classroom teacher” means an individual who is required to hold a teaching license from the ~~Department of Education~~ **Division of Elementary and Secondary Education** and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

SECTION 1647. Arkansas Code § 6-20-2002(4), concerning the definition of “state funds” under the laws regarding tracking and accounting of interschool athletic program funds, is amended to read as follows:

<< AR ST § 6-20-2002 >>

(4) “State funds” means all money derived from state revenues, specifically including, but not limited to, distributions from the ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account and ad valorem property taxes distributed to a public school or school district.

SECTION 1648. Arkansas Code § 6-20-2003(a), concerning reporting by local school districts, is amended to read as follows:

<< AR ST § 6-20-2003 >>

(a) During the appropriate Arkansas Public School Computer Network reporting cycle each year, a school district shall submit appropriate data to the ~~Department of Education~~ **Division of Elementary and Secondary Education** documenting the school district's total athletic expenditures paid from state funds.

SECTION 1649. Arkansas Code § 6-20-2102(1), concerning the definition of “classroom teacher” under the laws governing the tracking and accounting of interschool scholastic activity funds, is amended to read as follows:

<< AR ST § 6-20-2102 >>

(1) “Classroom teacher” means an individual who is required to hold a teaching license from the ~~Department of Education~~ **Division of Elementary and Secondary Education** and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

SECTION 1650. Arkansas Code § 6-20-2102(4), concerning the definition of “state funds” under the laws governing the tracking and accounting of interschool scholastic activity funds, is amended to read as follows:

<< AR ST § 6-20-2102 >>

(4) “State funds” means all money derived from state revenues, specifically including, but not limited to, distributions from the ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account and ad valorem property taxes distributed to a public school or school district.

SECTION 1651. Arkansas Code § 6-20-2103(a), concerning reporting by school districts, is amended to read as follows:

<< AR ST § 6-20-2103 >>

(a) During the appropriate Arkansas Public School Computer Network reporting cycle each year, a school district shall submit data to the ~~Department of Education~~ **Division of Elementary and Secondary Education** documenting the school district's total interschool scholastic activity expenditures paid from state funds.

SECTION 1652. Arkansas Code § 6–20–2202 is amended to read as follows:

<< AR ST § 6–20–2202 >>

6–20–2202. Budget and expenditure report.

(a)(1) The board of directors of each school district, open-enrollment public charter school, and education service cooperative annually shall prepare a budget of expenditures and receipts that shall be filed with the ~~Department of Education~~ **Division of Elementary and Secondary Education** by September 30 of each year under this subchapter.

(2)(A) Each budget shall be approved by the board of directors of each school district, open-enrollment public charter school, and education service cooperative at a legally held meeting and shall be signed by the president of the board of directors and the ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative.

(B) The budget shall contain the information and be prepared in an electronic format prescribed by the ~~Department of Education~~ **Division of Elementary and Secondary Education** governing financial accounting for Arkansas school districts, open-enrollment public charter schools, and education service cooperatives.

(3)(A) The electronic format required by the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall be available for completion by school districts, open-enrollment public charter schools, and education service cooperatives not later than September 15 of each year.

(B) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall declare when the electronic format is accessible to school districts, open-enrollment public charter schools, and education service cooperatives via a Commissioner of **Elementary and Secondary Education's** memo.

(b)(1)(A) Warrants or checks of a school district, open-enrollment public charter school, or education service cooperative issued after the date required by subsection (a) of this section shall be invalid unless a budget has been filed as required by this subchapter and in compliance with appropriate rules.

(B) The ex officio financial secretary of a school district, open-enrollment public charter school, or education service cooperative and his or her surety shall be liable for any warrants or checks countersigned after the date required by subsection (a) of this section if a budget has not been filed.

(2) After the ~~Department of Education~~ **Division of Elementary and Secondary Education** has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives, distribution of all grants and aids from the state for which the school district, open-enrollment public charter school, or education service cooperative may be eligible shall be suspended until the requirements of this subchapter are met by the school districts, open-enrollment public charter schools, or education service cooperatives.

(c)(1)(A) School district, open-enrollment public charter school, and education service cooperative budgets filed pursuant to this section shall be reviewed by the auditors of the financial accountability office of the ~~Department of Education~~ **Division of Elementary and Secondary Education** to determine whether the requirements of state law and the rules of the State Board of Education regarding the use of school, open-enrollment public charter school, and education service cooperative funds and expenditure requirements are being met.

(B)(i) The review and the determination shall be completed not later than February 15 of each year.

(ii) If the auditors of the financial accountability office determine that the financial records are deficient, then the school district, open-enrollment public charter school, or education service cooperative shall be notified and shall have thirty (30) days to respond prior to suspension of the grants and aids.

(2) Upon approval by the auditors, copies of the approved budget shall be filed with the school district, the open-enrollment public charter school, the education service cooperative, the county treasurer if serving as school treasurer, and the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(d)(1)(A) The ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative shall keep a record of the following information in a format required by the ~~Department of Education~~ **Division of Elementary and Secondary Education**:

(i) The daily expenditures and receipts of the school district, open-enrollment public charter school, or education service cooperative; and

(ii)(a) Information on fund balances maintained by the school district, open-enrollment public charter school, or education service cooperative, including, but not limited to, the:

(1) Sources of the funds maintained as fund balances, to the extent practicable;

(2) Reasons for maintaining, instead of spending, the fund balances;

(3)(A) Amount of funds transferred between various funds during the past year.

(B) The school district, open-enrollment public charter school, and education service cooperative shall identify the funds transferred between and the amount of funds transferred; and

(4) Amount of fund balances dedicated for the construction, maintenance, or repair of academic or athletic facilities.

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promulgate rules that require reporting of fund balances sufficient to verify whether funds allocated for educational purposes, including, but not limited to, student academic needs and the maintenance and operation of public school district facilities, are used for their intended purposes or retained by the school district in its fund balances.

(B)(i) An annual report summarizing the information required in subdivision (d)(1)(A) of this section in a format required by the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall be filed by August 31 of each year with the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(ii) A final close must be performed in each school district's or open-enrollment public charter school's or education service cooperative's applicable general ledger database no later than September 10 of each year.

(iii) The Arkansas Public School Computer Network shall ensure that proper controls are in place to prohibit changes to the aforementioned data after the final close has been performed.

(2) If the auditors of the financial accountability office of the ~~Department of Education~~ **Division of Elementary and Secondary Education** determine that the financial records of any school district, open-enrollment public charter school, or education service cooperative are not properly maintained or that the financial affairs of the school district, open-enrollment public charter school, or education service cooperative are not administered in accordance with state law

or state board rules, grants and aids from the state to which the school district, open-enrollment public charter school, or education service cooperative may be entitled shall be withheld until it is determined that the fiscal records of the school district, open-enrollment public charter school, or education service cooperative are in order or that the financial affairs are being properly administered as established by statute or by rule promulgated by the state board, provided that the ~~Department of Education~~ **Division of Elementary and Secondary Education** has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives.

(e)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may withhold state aid from any school district, open-enrollment public charter school, or education service cooperative that fails to file its budget or any other required report with the ~~Department of Education~~ **Division of Elementary and Secondary Education** by the deadline established by statute or by rule promulgated by the state board or by the due dates established by the ~~Department of Education~~ **Division of Elementary and Secondary Education** pursuant to subdivision (e)(2) of this section, provided that the ~~Department of Education~~ **Division of Elementary and Secondary Education** has met all deadlines for providing pertinent information to school districts, open-enrollment public charter schools, or education service cooperatives.

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall submit a list of all required financial accountability reports along with due dates to each school district, open-enrollment public charter school, and education service cooperative by July 1 of each year.

(f) The state board shall promulgate the necessary rules to fully implement this section.

(g)(1) The Treasurer of State shall withhold the monthly distribution of county aid provided under § 19–5–602(c) from any county whose county official who is the preparer of the tax books fails to provide by March 15 of each calendar year information concerning the annual abstract of assessment that reflects the aggregate value of the real and personal property for each school district located wholly or in part in the county as follows:

(A) If the county is capable of providing the information electronically, then the information shall be provided to both the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Assessment Coordination ~~Department~~ **Division**; and

(B) If the county is not capable of providing the information electronically, then the information shall be provided only to the Assessment Coordination ~~Department~~ **Division**.

(2) The information transmitted to the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Assessment Coordination ~~Department~~ **Division** shall also include:

(A) The previous calendar year's property assessment that will be used for ad valorem tax collections in the current year; and

(B) The millage rates, which shall be listed by the type of millage, levied against that property assessment.

SECTION 1653. Arkansas Code § 6–20–2203(a)(3)(A), concerning the requirement of a uniform budget and accounting system, is amended to read as follows:

<< AR ST § 6–20–2203 >>

(3)(A) Pursuant to § 6–20–2207, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall establish and implement a uniform chart of accounts known as the “Arkansas Financial Accounting Handbook” or the “Arkansas Handbook”.

SECTION 1654. Arkansas Code § 6–20–2203(a)(4), concerning the requirement of a uniform budget and accounting system, is amended to read as follows:

<< AR ST § 6–20–2203 >>

(4) The rules shall be developed by the state board in cooperation with the ~~department~~ **division**, representatives from the Arkansas Association of Educational Administrators, the Arkansas Association of School Business Officials, the Arkansas Education Association, the education service cooperatives, and the Legislative Joint Auditing Committee.

SECTION 1655. Arkansas Code § 6–20–2203(b), concerning the requirement of a uniform budget and accounting system, is amended to read as follows:

<< AR ST § 6–20–2203 >>

(b) To the extent necessary to comply with federal law, the terms and definitions contained in the Arkansas Handbook shall initially comply with Financial Accounting for Local and State School Systems, 2003 Edition (NCES 2004–318), and may thereafter be revised by the ~~department~~ **division** as necessary to remain consistent and shall be used for valid comparisons of expenditures of schools, school districts, open-enrollment public charter schools, and education service cooperatives.

SECTION 1656. Arkansas Code § 6–20–2203(c)(3)(B), concerning the requirement of a uniform budget and accounting system, is amended to read as follows:

<< AR ST § 6–20–2203 >>

(B) The ~~department~~ **division** shall implement the expenditure categories in this subdivision (c)(3) beginning with the 2007–2008 school year;

SECTION 1657. Arkansas Code § 6–20–2203(c)(4)(B), concerning the requirement of a uniform budget and accounting system, is amended to read as follows:

<< AR ST § 6–20–2203 >>

(B) The ~~department~~ **division** shall complete a trial implementation of the revenue categories in subdivisions (c)(4)(A)(i) and (ii) of this section by the end of the 2007–2008 school year and fully implement all revenue categories in this subdivision (c)(4) beginning with the 2008–2009 school year;

SECTION 1658. Arkansas Code § 6–20–2203(c)(5)(B), concerning the requirement of a uniform budget and accounting system, is amended to read as follows:

<< AR ST § 6–20–2203 >>

(B) The ~~department~~ **division** shall implement this subdivision (c)(5) beginning with the 2007–2008 school year;

SECTION 1659. Arkansas Code § 6–20–2203(c)(6)(B), concerning the requirement of a uniform budget and accounting system, is amended to read as follows:

<< AR ST § 6–20–2203 >>

(B) The department **division** shall implement this subdivision (c)(6) beginning with the 2007–2008 school year;

SECTION 1660. Arkansas Code § 6–20–2203(c)(8)(B), concerning the requirement of a uniform budget and accounting system, is amended to read as follows:

<< AR ST § 6–20–2203 >>

(B) The department **division** shall implement this subdivision (c)(8) beginning with the 2007–2008 school year.

SECTION 1661. Arkansas Code § 6–20–2203(e) and (f), concerning the requirement of a uniform budget and accounting system, are amended to read as follows:

<< AR ST § 6–20–2203 >>

(e) The department **division** shall have the authority to analyze and inspect the financial records of any school, open-enrollment public charter school, school district, or education service cooperative in order to verify that a school, school district, or education service cooperative is correctly and accurately reporting expenditures.

(f) By February 15 of each year, the department **division** shall submit a report to the state board, the Governor, the Senate Committee on Education, and the House Committee on Education concerning public school and public school district expenditures required by law.

SECTION 1662. Arkansas Code § 6–20–2204 is amended to read as follows:

<< AR ST § 6–20–2204 >>

6–20–2204. Required training.

(a)(1)(A) The Department of Education **Division of Elementary and Secondary Education** shall establish two (2) tiers of required training.

(B) Both tiers of required training shall apply to public school districts, open-enrollment public charter schools, and education service cooperatives.

(C)(i) At a minimum, two (2) persons per educational entity are required to attend an initial and annual Tier I training:

(a) The school district superintendent or the education service cooperative director or the open-enrollment public charter school director; and

(b) A person whose job responsibilities include preparing the budget or overall accounting responsibility.

(ii) The two (2) persons per educational entity required to attend the initial and annual Tier I training shall each obtain twelve (12) hours of initial training and instruction necessary to demonstrate basic proficiency as determined by the ~~department~~ **division**, including, but not limited to:

- (a) School laws of Arkansas;
- (b) Laws and rules governing the expenditure of public education funds, fiscal accountability, and school finance;
- (c) Ethics; and
- (d) Financial accounting and reporting of schools, school districts, open-enrollment public charter schools, and education service cooperative expenditures.

(2)(A) Each year thereafter, the school district superintendent, the education service cooperative executive director, or open-enrollment public charter school director and the person whose job responsibilities include preparing the budget or overall accounting responsibility who have already attended the initial and Tier I training shall obtain by December 31 of each calendar year a minimum of two (2) hours of annual training and instruction as required by the ~~department~~ **division** in order to maintain basic proficiency in the topics described in subdivision (a)(1) of this section.

(B) Additional annual training may be required by the ~~department~~ **division** for the school district superintendent, the education service cooperative executive director, or open-enrollment public charter school director and the person whose job responsibilities include preparing the budget or overall accounting responsibility based on repetitive or flagrant audit findings or the identification of multiple indicators of fiscal distress.

(3)(A) The instruction may be provided by an institution of higher education in this state, from instruction sponsored by the ~~department~~ **division**, by an in-service training program conducted by the Arkansas Association of School Business Officials, or from another provider.

(B) To satisfy the training and requirements under this subsection, any provider other than the ~~department~~ **division** shall apply for and receive preapproval by the ~~department~~ **division** as to the form and content of the training and instruction before they are offered as training and instruction to comply with the provisions of this subsection (a) .

(4)(A) If a person fails to obtain the required Tier I training by the end of the calendar year and fails to cure the deficiency by March 1 of the following calendar year without filing a request for extension of time as determined from the records of the ~~department~~ **division**, the ~~department~~ **division** shall immediately notify the superintendent of the employing school district, the director of the open-enrollment public charter school, or the executive director of the education service cooperative by certified mail, return receipt requested, with a copy to the state board president.

(B)(i) The superintendent of the school district, the director of the open-enrollment public charter school, or the education service cooperative executive director shall notify the person by certified mail, return receipt requested, and the person shall be unable to continue in his or her position from the date of receipt of notification by the superintendent of the school district, the director of the open-enrollment public charter school, or the education service cooperative executive director.

(ii) Any person receiving notice that he or she shall be unable to continue in his or her position solely because of his or her failure to obtain the required training may request a hearing before the State Board of Education prior to his or her permanent dismissal.

- (5) If the person fails to obtain all required training by December 31, this failure shall constitute one (1) citation against the school district or the open-enrollment public charter school as measured by the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the department **division** or an admonishment to the education service cooperative by the department **division**.
- (6)(A) If the person is unable to obtain the required training because of military service or illness as verified by a written sworn statement of the person's attending physician, the department **division** shall grant an extension permitting the person additional time to obtain the required training.
- (B) The issuance of an extension shall not constitute a citation against the school district as measured by the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the department **division** or the education service cooperative and shall not operate to remove the person from his or her job.
- (b)(1) Tier II training shall include, but not be limited to, employees who do not make decisions about selecting codes or who have a limited number of codes that they can use.
- (2) Tier II training shall be developed by the department **division** in cooperation with representatives from the Arkansas Association of Educational Administrators, the Arkansas Association of School Business Officials, the Arkansas Education Association, the Legislative Joint Auditing Committee, and the education service cooperatives.
- (3)(A) The training shall be annual and shall be a minimum of two (2) hours.
- (B) Additional annual training may be required by the department **division** for employees who do not make decisions about selecting codes or who have a limited number of codes that they can use based on repetitive or flagrant audit findings or the identification of multiple indicators of fiscal distress.
- (4) School districts shall be responsible for providing the training to these employees.
- (5) School district trainers are required to attend Tier I training and annual updates as required by the department **division** under this subsection (b) and subsection (a) of this section.
- (c)(1) Each school district, open-enrollment public charter school, or education service cooperative shall maintain files and records indicating all employees who are required to obtain and who have completed Tier II training.
- (2) Each school district superintendent, open-enrollment public charter school director, or education service cooperative executive director shall provide the department **division** an assurance statement regarding the completion of Tier II training by the required individuals.
- (d) The state board shall modify the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the department **division** as may be required by this section.
- (e) It is the responsibility of the department **division** to receive and maintain records of instructional hours of Tier I training obtained under this section.
- (f) The state board is authorized to promulgate rules and regulations consistent with the provisions of this section.

SECTION 1663. Arkansas Code § 6-20-2206(a), concerning miscellaneous provisions regarding the Department of Education, is amended to read as follows:

<< AR ST § 6-20-2206 >>

(a) If the Department of Education **Division of Elementary and Secondary Education** determines that an overpayment has been made to a school district, open-enrollment public charter school, or education service cooperative in any funding category authorized by law, the department **division** is authorized to withhold the overpayment from future funding of the school district, open-enrollment public charter school, or education service cooperative and is authorized to transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was initially made.

SECTION 1664. Arkansas Code § 6–20–2206(c)(5)(B), concerning miscellaneous provisions regarding the Department of Education, is amended to read as follows:

<< AR ST § 6–20–2206 >>

(B) Pupil attendance records shall be kept according to law and regulations on paper or electronic forms either furnished or approved by the department **division**.

SECTION 1665. Arkansas Code § 6–20–2207(b)(1) and (2), concerning the rule-making authority of the State Board of Education, are amended to read as follows:

<< AR ST § 6–20–2207 >>

(b)(1)(A) The state board shall amend the rules, and the Department of Education **Division of Elementary and Secondary Education** shall amend the Arkansas Handbook provided in subsection (a) of this section as necessary.

(B) The amendments, annual revisions, and financial accounting updates to the Arkansas Handbook shall be developed with representatives from the Arkansas Association of School Business Officials, the education service cooperatives, and other school district officials as designated by the department **division**.

(2) Before making an amendment to the Arkansas Handbook, the department **division** shall provide written notice via a Commissioner of **Elementary and Secondary Education** memo to the school districts, open-enrollment public charter schools, and education service cooperatives.

SECTION 1666. Arkansas Code § 6–20–2208(c)(2)(A), concerning the monitoring of expenditures by school districts, is amended to read as follows:

<< AR ST § 6–20–2208 >>

(2)(A) Expend the sums allocated to the school district under § 6–20–2305(b) for salaries and other instructional aid components to benefit students in the special needs categories within the school district unless other expenditures are allowed by law or rule of the State Board of Education or the Department of Education **Division of Elementary and Secondary Education**.

SECTION 1667. Arkansas Code § 6–20–2208(d)(1), concerning the monitoring of expenditures by school districts, is amended to read as follows:

<< AR ST § 6–20–2208 >>

(d)(1) During the appropriate Arkansas public school computer network reporting cycle each year, each school district shall submit appropriate data to the department **division** establishing the school district's compliance with this section.

SECTION 1668. Arkansas Code § 6–20–2208(d)(4), concerning the monitoring of expenditures by school districts, is amended to read as follows:

<< AR ST § 6–20–2208 >>

(4) Reports for each school district shall be developed by the ~~department~~ **division** and transmitted to the Governor, the Senate Committee on Education, and the House Committee on Education.

SECTION 1669. Arkansas Code § 6–20–2210(a)(4), concerning the limitation on fund balances, is amended to read as follows:

<< AR ST § 6–20–2210 >>

(4)(A) “Revenues” means the same as defined in the latest version of the Arkansas Financial Accounting Handbook established by the ~~Department of Education~~ **Division of Elementary and Secondary Education** under § 6–20–2203.

SECTION 1670. Arkansas Code § 6–20–2210(a)(4)(B)(viii)(a) and (b), concerning the limitation on fund balances, are amended to read as follows:

<< AR ST § 6–20–2210 >>

(a) The latest version of the Arkansas Financial Accounting Handbook established by the ~~department~~ **division** under § 6–20–2203; or

(b) Rules promulgated by the ~~department~~ **division**; and

SECTION 1671. Arkansas Code § 6–20–2210(d)–(f), concerning the limitation on fund balances, are amended to read as follows:

<< AR ST § 6–20–2210 >>

(d)(1) The ~~department~~ **division** shall:

(A) Monitor on a yearly basis each public school district's compliance with the requirements of this section; and

(B) Withhold subsequent state funding from a public school district in the amounts under subdivision (d)(2) of this section for each year the public school district fails to make the required reduction.

(2) If a public school district fails to reduce every year within the five-year period its net legal balance by twenty percent (20%) of the total required reduction under subsection (b) of this section, the ~~department~~ **division** shall withhold subsequent state funding from that public school district in an amount equal to the amount the public school district failed to reduce its net legal balance for that year.

(e)(1) Under an unusual and limited circumstance, including without limitation an increase in one-time funds, a public school district may request that the ~~department~~ **division** waive the requirements of this section.

- (2) A public school district seeking a waiver shall file a waiver request with the Commissioner of **Elementary and Secondary** Education, accompanied by a resolution adopted by the public school district's board of directors, describing the unusual and limited circumstances.
- (3) The commissioner may grant a waiver request under this subsection if the commissioner finds that the request is necessary based upon the unusual and limited circumstances.
- (f) The ~~department~~ **division** shall promulgate rules to implement this section.

SECTION 1672. Arkansas Code § 6–20–2303(4), concerning the definition of “classroom teacher” under the Public School Funding Act of 2003, is amended to read as follows:

<< AR ST § 6–20–2303 >>

(4) “Classroom teacher” means:

- (A) An individual who is required to hold a teaching license from the ~~Department of Education~~ **Division of Elementary and Secondary Education** and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;
- (B) A guidance counselor; or
- (C) A librarian;

SECTION 1673. Arkansas Code § 6–20–2303(13)(A), concerning the definition of “national school lunch students” under the Public School Funding Act of 2003, is amended to read as follows:

<< AR ST § 6–20–2303 >>

(13)(A) “National school lunch students” means those students or the percentage of enrolled students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the National School Lunch Act, 42 U.S.C. § 1751 et seq., as determined on October 1 of each previous school year and submitted to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, unless the school district is identified by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759a.

SECTION 1674. Arkansas Code § 6–20–2303(17), concerning the definition of “quarterly average daily membership” under the Public School Funding Act of 2003, is amended to read as follows:

<< AR ST § 6–20–2303 >>

(17) “Quarterly average daily membership” means the average daily membership for one (1) quarter of a school year used for calculating student growth funding and as determined by rule established by the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 1675. Arkansas Code § 6–20–2304(b)(1), concerning regulations and access to information on legislation by the State Board of Education, is amended to read as follows:

<< AR ST § 6-20-2304 >>

(1) Including a link to the information on the ~~Department of Education~~ **Division of Elementary and Secondary Education** website; and

SECTION 1676. Arkansas Code § 6-20-2305(a)(1)(B), concerning school funding, is amended to read as follows:

<< AR ST § 6-20-2305 >>

(B) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall distribute state foundation funding aid to each school district in twelve (12) monthly payments.

SECTION 1677. Arkansas Code § 6-20-2305(a)(4), concerning school funding, is amended to read as follows:

<< AR ST § 6-20-2305 >>

(4)(A)(i) Except as provided in subdivisions (a)(4)(C) and (D) of this section, by the end of each school fiscal year, for a school district whose net revenues are less than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall distribute to the school district the difference between:

(a) The net revenues distributed to the school district as reported under § 26-80-101(b)(4)(A)(ii) for the calendar year immediately preceding the current school year; and

(b) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(ii) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may distribute to the school district a lesser amount than required under subdivisions (a)(4)(A)(i)(a) and (b) of this section if after the lesser amount is distributed the school district will receive the foundation funding amount under § 6-20-2305(a).

(B) For a school district whose net revenues are more than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, under the authority of § 6-20-2306, shall recoup from the school district an amount equal to the difference between:

(i) The net revenues of the school district; and

(ii) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(C) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall not distribute to a school district the funds under subdivision (a)(4)(A)(i) of this section if, regardless of the school district's tax collection rate, the school district's net revenues plus miscellaneous funds calculated under § 6-20-2308 meet or exceed the foundation funding amount set forth in § 6-20-2305(a).

(D)(i) A country treasurer shall submit annually to the ~~Department of Education~~ **Division of Elementary and Secondary Education** an annual summary report of all proceeds generated from ad valorem taxes and distributed

by the county to a school district for the period beginning January 1 and ending on December 31 of the preceding calendar year to verify the receipt of revenues under § 26–80–101(b)(4)(A)(ii).

(ii)(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may adjust data appropriately if it determines that irregular distributions by a county treasurer of excess commissions cause a school district's property tax collection rate from the uniform rate of tax to exceed ninety-eight percent (98%).

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may adjust the uniform rate of tax from an irregular distribution to an amount not in excess of ninety-eight percent (98%) and apply the excess distribution amount the following school year.

(iii) Evidence of overlapping revenue reporting or irregular distributions shall be provided in the form required by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1678. Arkansas Code § 6–20–2305(b)(4)(B)(ii)(a), concerning school funding, is amended to read as follows:

<< AR ST § 6–20–2305 >>

(ii)(a) If a school district will receive in the current school year national school lunch state categorical funding under subdivision (b)(4)(A) of this section that is based on a different per-student amount of national school lunch state categorical funding than the school district received in the immediately preceding school year, due to a percentage change in national school lunch students, the ~~department~~ **Division of Elementary and Secondary Education** shall adjust the funding to the school district in a transitional three-year period.

SECTION 1679. Arkansas Code § 6–20–2305(b)(4)(B)(iii)(a), concerning school funding, is amended to read as follows:

<< AR ST § 6–20–2305 >>

(iii)(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall establish rules to implement the transitional national school lunch state categorical funding provided in subdivision (b)(4)(B)(ii) of this section.

SECTION 1680. Arkansas Code § 6–20–2305(b)(4)(B)(v)(b) and (c), concerning school funding, are amended to read as follows:

<< AR ST § 6–20–2305 >>

(b) The State Board of Education shall establish rules to be used by the ~~Department of Education~~ **Division of Elementary and Secondary Education** to determine:

- (1) The amount of growth necessary to qualify as significant growth;
- (2) The expected increase in the number of national school lunch students based on the expected increase in enrolled students; and

(3) Which school districts have experienced a significant growth in enrolled students as necessary to qualify for funding under this subdivision (b)(4)(B)(v).

(c) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall not be required to adjust or fund a school district's national school lunch students based on the current year's number of national school lunch students enrolled in the school district or the average growth of students in the school district.

SECTION 1681. Arkansas Code § 6-20-2305(b)(4)(C)(i)(b)(16), concerning school funding, is amended to read as follows:

<< AR ST § 6-20-2305 >>

(16) The College and Career Coaches Program, as administered by the ~~Department~~ **Division of Career and Technical** Education under § 6-1-601 et seq.; and

SECTION 1682. Arkansas Code § 6-20-2305(b)(4)(C)(iv)(a), concerning school funding, is amended to read as follows:

<< AR ST § 6-20-2305 >>

(iv)(a) Upon review of the school district's school-level improvement plan, if the Commissioner of **Elementary and Secondary** Education determines that the school district has met the needs of students in the school district for whom the funding for additional educational categories under this subsection is provided, has met the requirements of subdivisions (b)(4)(C)(ii) and (iii) of this section, and has prudently managed its resources, the commissioner shall give written approval of the detailed planned flexible use of excess national school lunch student categorical funds provided to the school district.

SECTION 1683. Arkansas Code § 6-20-2305(b)(4)(C)(vi)-(viii), concerning school funding, are amended to read as follows:

<< AR ST § 6-20-2305 >>

(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 1684. Arkansas Code § 6-20-2305(b)(4)(C)(x)-(xii), concerning school funding, are amended to read as follows:

<< AR ST § 6-20-2305 >>

(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 this section shall be deemed to prohibit a school district from participating in the provisions of subdivisions (b)(4)(C)(ii)-(viii) of this section.

(xii) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promulgate rules and develop appropriate reporting forms for use by school districts to comply with this subdivision (b)(4)(C).

and Secondary Education a report 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**.⁷

(ii) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall develop appropriate reporting forms for use by school districts.

SECTION 1685. Arkansas Code § 6–20–2305(b)(4)(E)(i), concerning school funding, is amended to read as follows:

<< AR ST § 6–20–2305 >>

(E)(i) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide a report on the impact of national school lunch student categorical funding provided under this subdivision (b)(4) on closing the achievement gap to the House Committee on Education and the Senate Committee on Education by May 31 each even-numbered year, beginning in 2010.

SECTION 1686. Arkansas Code § 6–20–2305(b)(4)(F)(iii)(a), concerning school funding, is amended to read as follows:

<< AR ST § 6–20–2305 >>

(iii)(a) Under an unusual and limited circumstance, including without limitation an increase in one-time funds or an unexpected decrease in school district revenues during a given year, a school district may request that the ~~Department of Education~~ **Division of Elementary and Secondary Education** waive the requirements of this subdivision (b)(4)(F).

SECTION 1687. Arkansas Code § 6–20–2305(b)(4)(F)(v), concerning school funding, is amended to read as follows:

<< AR ST § 6–20–2305 >>

(v)(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall monitor on a yearly basis each school district's compliance with the requirements of this subdivision (b)(4)(F).

(b) If a school district fails to comply with the requirements of this subdivision (b)(4)(F) during a school year, the ~~Department of Education~~ **Division of Elementary and Secondary Education** may in the following school year withhold from that school district's national school lunch state categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subdivision (b)(4)(F).

(c) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may redistribute amounts withheld under this subdivision (b)(4)(F) to other school districts entitled to receive national school lunch state categorical funding allocations.

SECTION 1688. Arkansas Code § 6–20–2305(b)(5)(C), concerning school funding, is amended to read as follows:

<< AR ST § 6–20–2305 >>

(C)(i) Additional funding provided for professional development above the amount in subdivision (b)(5)(A) of this section shall be used by the ~~Department of Education~~ **Division of Elementary and Secondary Education** for the development and administration of professional learning communities for the benefit of public school districts.

(ii)(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promulgate rules to administer the additional professional development funding under subdivision (b)(5)(C)(i) of this section.

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may partner with or choose a person, firm, corporation, or education service cooperative to provide the knowledge, skills, experience, and expertise for the development of a research-based process for the implementation of professional learning communities.

SECTION 1689. Arkansas Code § 6–20–2305(e)(1)(C), concerning school funding, is amended to read as follows:

<< AR ST § 6–20–2305 >>

(C) If the ~~Department of Education~~ **Division of Elementary and Secondary Education** determines that a school district's expenditure of funds allocated under subsection (b) of this section would result in the school district's losing funding under any federal law, then the funds allocated to a school district under subsection (b) of this section may be expended for other academic programs or salaries as permitted by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1690. Arkansas Code § 6–20–2305(e)(4), concerning school funding, is amended to read as follows:⁸

SECTION 1691. Arkansas Code § 6–20–2305(b)(4)(D), concerning school funding, is amended to read as follows:

<< AR ST § 6–20–2305 >>

(D)(i) By the end of each school year, each school district shall submit to the ~~Department of Education~~ **Division of Elementary**⁹

<< AR ST § 6–20–2305 >>

(4)(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall monitor on a yearly basis each school district's compliance with the requirements of this subsection.

(B) If a school district fails to comply with the requirements of this subsection during a school year, the ~~Department of Education~~ **Division of Elementary and Secondary Education** may in the following school year withhold from that school district's categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subsection.

(C) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may redistribute amounts withheld under this subsection to other school districts entitled to receive categorical funding allocations.

SECTION 1692. Arkansas Code § 6–20–2305(f)(2), concerning school funding, is amended to read as follows:

<< AR ST § 6–20–2305 >>

(2) The school district shall maintain records and make reports relative to attendance, receipts, and disbursements and other reports as required by the ~~Department of Education~~ **Division of Elementary and Secondary Education** for the administration of this subchapter;

SECTION 1693. Arkansas Code § 6–20–2305(f)(5)(B), concerning school funding, is amended to read as follows:

<< AR ST § 6–20–2305 >>

(B) The records shall be kept according to law and regulations on paper or electronic forms either furnished or approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1694. Arkansas Code § 6–20–2305(g), concerning school funding, is amended to read as follows:

<< AR ST § 6–20–2305 >>

(g)(1) By the end of each school year, each school district shall submit to the ~~Department of Education~~ **Division of Elementary and Secondary Education** a report listing each program upon which funds allocated under subsection (b) of this section were expended, the amount expended, and any other information required by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall develop appropriate reporting forms for use by school districts.

SECTION 1695. Arkansas Code § 6–20–2306 is amended to read as follows:

<< AR ST § 6–20–2306 >>

6–20–2306. ~~Department of Education~~ **Division of Elementary and Secondary Education to provide funding — Adjustments for overpayments.**

(a) If the ~~Department of Education~~ **Division of Elementary and Secondary Education** determines that an overpayment has been made to a school district under any appropriation authorized by this subchapter, the ~~department~~ **division** may:

- (1) Withhold the overpayment from subsequent state funding;
- (2) Transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was initially made; or
- (3) Request a refund from the school district in the amount of the overpayment.

(b) The school district shall comply as directed by the ~~department~~ **division**.

SECTION 1696. The introductory language of Arkansas Code § 6–20–2308(a), concerning the calculation of miscellaneous funds, is amended to read as follows:

<< AR ST § 6–20–2308 >>

(a) For the purpose of making an initial calculation of state foundation funding aid, the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall calculate the miscellaneous funds of a school district as:

SECTION 1697. The introductory language of Arkansas Code § 6–20–2308(b)(1), concerning the calculation of miscellaneous funds, is amended to read as follows:

<< AR ST § 6–20–2308 >>

(b)(1) Except as provided under subdivision (b)(2) of this section, for a school district that receives state foundation funding aid and receives an aggregate amount of miscellaneous funds during the calendar year in which the current school fiscal year began that is less than the aggregate amount of miscellaneous funds the school district received in the calendar year immediately preceding the beginning of the current school fiscal year, by the end of the school fiscal year the ~~department~~ **division** shall distribute to the school district an amount equal to the difference between:

SECTION 1698. The introductory language of Arkansas Code § 6–20–2308(c)(1), concerning the calculation of miscellaneous funds, is amended to read as follows:

<< AR ST § 6–20–2308 >>

(c)(1) Beginning with the 2014–2015 school fiscal year, the ~~department~~ **division** shall recoup an overpayment of state funding under the authority provided by § 6–20–2306 for a school district that receives:

SECTION 1699. The introductory language of Arkansas Code § 6–20–2308(c)(2), concerning the calculation of miscellaneous funds, is amended to read as follows:

<< AR ST § 6–20–2308 >>

(2) The ~~department~~ **division** shall recoup from the school district an amount equal to the difference between:

SECTION 1700. The introductory language of Arkansas Code § 6–20–2309 is amended to read as follows:

<< AR ST § 6–20–2309 >>

For the 2017–2018 school year and the 2018–2019 school year, in addition to the foundation funding provided to a school district under § 6–20–2305(a)(2), the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall distribute enhanced transportation funding to school districts each school year in the following amounts:

SECTION 1701. Arkansas Code § 6–20–2503(b)(2)(B), concerning bonded debt assistance, is amended to read as follows:

<< AR ST § 6–20–2503 >>

(B) The annual amount due on a fiscal year basis from the school district in accordance with the principal and interest payment schedule in effect and on file with the ~~Department of Education~~ **Division of Elementary and Secondary Education** on January 1, 2005, for the outstanding bonded indebtedness identified under subdivision (b)(2)(A) of this section; and

SECTION 1702. Arkansas Code § 6–20–2503(b)(3)(A)(i)(a), concerning bonded debt assistance, is amended to read as follows:

<< AR ST § 6–20–2503 >>

(i)(a) For the year that financial assistance under this section will be provided, ascertain the scheduled debt payment on a fiscal year basis from the principal and interest payment schedule in effect and on file with the ~~department~~ **Division of Elementary and Secondary Education** on January 1, 2005, and reduce the amount of the payment by ten percent (10%) except as provided in subdivision (b)(3)(A)(i)(b) of this section.

SECTION 1703. Arkansas Code § 6–20–2503(c)(1)(B), concerning bonded debt assistance, is amended to read as follows:

<< AR ST § 6–20–2503 >>

(B) If a school district qualifies for bonded debt assistance under this section, the amount of bonded debt assistance under this section shall not be altered or reduced as a result of refunding the bonds that were issued and outstanding as of January 1, 2005, and the bonded debt assistance shall continue after the refunding based on the principal and interest payment schedule in effect and on file with the ~~department~~ **Division of Elementary and Secondary Education** on January 1, 2005.

SECTION 1704. Arkansas Code § 6–20–2503(c)(2), concerning bonded debt assistance, is amended to read as follows:

<< AR ST § 6–20–2503 >>

(2) Nothing in this subsection shall prevent the annual adjustment of bonded debt assistance under this section in accordance with annual variations in the state wealth index and the school district's principal and interest payment schedule in effect and on file with the ~~department~~ **Division of Elementary and Secondary Education** on January 1, 2005.

SECTION 1705. Arkansas Code § 6–20–2503(g), concerning bonded debt assistance, is amended to read as follows:

<< AR ST § 6–20–2503 >>

(g) Within thirty (30) days after the satisfaction of a school district's outstanding bonded indebtedness in existence as of January 1, 2005, the school district shall notify the ~~department~~ **Division of Elementary and Secondary Education** that the school district's outstanding bonded indebtedness in existence as of January 1, 2005, has been satisfied, which shall include defeasance, but shall exclude refunding.

SECTION 1706. Arkansas Code § 6–20–2507(b), concerning the creation of the Academic Facilities Partnership Program, is amended to read as follows:

<< AR ST § 6–20–2507 >>

(b)(1) In order to apply for state financial participation in a new construction project, a school district shall provide the ~~division~~ **Division of Public School Academic Facilities and Transportation** with a detailed narrative, description, and justification for the project, a drawing, and evidence of:

(A) Preparation for the new construction project as demonstrated by inclusion of the new construction project in the school district's facilities master plan;

(B)(i) The adoption of a resolution certifying to the ~~division~~ **Division of Public School Academic Facilities and Transportation** the school district's dedication of local resources to meet the school district's share of financial participation in the new construction project.

(ii) The resolution shall specify the approximate date that the board of directors of the school district intends to seek elector approval of any bond or tax measures or to apply other local resources to pay the school district's share of financial participation in the new construction project;

(C)(i) The total estimated cost of the new construction project that shall be a minimum of three hundred dollars (\$300) per student or one hundred fifty thousand dollars (\$150,000), whichever is less.

(ii) The ~~division~~ **Division of Public School Academic Facilities and Transportation** may waive the minimum requirement under subdivision (b)(1)(C)(i) of this section upon a recommendation by the Director of the Division of Public School Academic Facilities and Transportation to the Commission for Arkansas Public School Academic Facilities and Transportation for the minimum to be waived for cause and a majority of the commission votes to support the waiver;

(D) The new construction project's conformance with sound educational practices;

(E) The new construction project's compliance with current academic facilities standards, including without limitation, appropriate space utilization of the applicable school in the district as determined by the ~~division~~ **Division of Public School Academic Facilities and Transportation**;

(F) The allocation of project costs between new construction activities and maintenance, repair, and renovation activities if the new construction project includes improvements that could be classified as maintenance, repair, and renovation; and

(G) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the district.

(2)(A) Life cycle data is advisory only and shall not be sufficient to support the approval of those items in the list of approved projects or individual items within a project.

(B) The ~~division~~ **Division of Public School Academic Facilities and Transportation** shall require independent proof of the failure of the equipment or other item.

SECTION 1707. The introductory language of Arkansas Code § 6-20-2507(c), concerning the creation of the Academic Facilities Partnership Program, is amended to read as follows:

<< AR ST § 6-20-2507 >>

(c) The ~~division~~ **Division of Public School Academic Facilities and Transportation** shall use criteria to evaluate a school district's application for state financial participation in a new construction project, which shall include, without limitation, the following:

SECTION 1708. Arkansas Code § 6-20-2507(d), concerning the creation of the Academic Facilities Partnership Program, is amended to read as follows:

<< AR ST § 6-20-2507 >>

(d)(1) The ~~division~~ **Division of Public School Academic Facilities and Transportation** shall notify the school district of the ~~division's~~ **Division of Public School Academic Facilities and Transportation's** decision on the application and, if applicable, the estimated amount of state financial participation in the new construction project no later than May 1 of each odd-numbered year.

(2) The ~~division's~~ **Division of Public School Academic Facilities and Transportation's** notice of its decision on a school district's application for state financial participation in a new construction project shall include an explanation of the evaluative factors underlying the decision of the ~~division~~ **Division of Public School Academic Facilities and Transportation** to provide or not provide state financial participation in support of the new construction project.

(3) The commission may withdraw committed funds if a school district had funding made available on:

(A) July 1, 2006, and does not begin construction, as evidenced by a signed construction contract, by January 31, 2010; or

(B) July 1, 2007, and does not begin construction, as evidenced by a signed construction contract, by January 31, 2011.

(4) If a construction project has not begun as required under subdivision (d)(3) of this section due to the failure of a school district to raise the school district's share of the project cost due to a failed millage election before June 1, 2009, the ~~division~~ **Division of Public School Academic Facilities and Transportation** may exercise its authority under § 6-21-811.

SECTION 1709. Arkansas Code § 6-20-2507(e)(1), concerning the creation of the Academic Facilities Partnership Program, is amended to read as follows:

<< AR ST § 6-20-2507 >>

(e)(1) If the ~~division~~ **Division of Public School Academic Facilities and Transportation** determines that the new construction project is eligible for state financial participation, the ~~division~~ **Division of Public School Academic Facilities and Transportation** and the school district shall enter into an agreement specifying the terms of the state's financial participation and the conditions that must be satisfied by the school district.

SECTION 1710. Arkansas Code § 6-20-2507(e)(2)(D) and (E), concerning the creation of the Academic Facilities Partnership Program, are amended to read as follows:

<< AR ST § 6-20-2507 >>

(D) Provide that changes to the plans for the new construction project shall be made in consultation with the ~~division~~ **Division of Public School Academic Facilities and Transportation;**

(E) Provide that the ~~division~~ **Division of Public School Academic Facilities and Transportation** or any person acting on behalf of the ~~division~~ **Division of Public School Academic Facilities and Transportation** may conduct on-site inspections of the new construction project as frequently as the ~~division~~ **Division of Public School Academic Facilities and Transportation** deems necessary to assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities;

SECTION 1711. Arkansas Code § 6–20–2507(f), concerning the creation of the Academic Facilities Partnership Program, is amended to read as follows:

<< AR ST § 6–20–2507 >>

(f)(1)(A) If a school district qualifies for state financial participation under this section, the ~~division~~ **Division of Public School Academic Facilities and Transportation** shall certify the amount of state financial participation to the commission.

(B) The amount of state financial participation under this section is limited to the amount resulting from the application of the academic facilities wealth index to the project cost promulgated by the commission to calculate the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facility Manual under § 6–21–809.

(2)(A) The commission shall certify the amount to the ~~Department of Education~~ **Division of Elementary and Secondary Education** for payment, less any withholding or reduction imposed by the commission under § 6–21–114(d) for a school district's failure to comply with the commission's insurance requirements.

(B) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6–20–2201 et seq., and rules established by the State Board of Education and the commission.

SECTION 1712. The introductory language of Arkansas Code § 6–20–2508(c), concerning the creation of the Academic Facilities Catastrophic Program, is amended to read as follows:

<< AR ST § 6–20–2508 >>

(c) As part of its application for state financial participation in a catastrophic project, the school district shall provide the ~~division~~ **Division of Public School Academic Facilities and Transportation** with evidence of:

SECTION 1713. Arkansas Code § 6–20–2508(d)–(f), concerning the creation of the Academic Facilities Catastrophic Program, are amended to read as follows:

<< AR ST § 6–20–2508 >>

(d)(1) The ~~division~~ **Division of Public School Academic Facilities and Transportation** shall evaluate a school district's application for catastrophic assistance and may conduct an on-site inspection before making a decision on the application as it deems necessary.

(2) The ~~division~~ **Division of Public School Academic Facilities and Transportation** shall notify the school district of the ~~division's~~ **Division of Public School Academic Facilities and Transportation's** decision on the application and, if applicable, the amount of state financial participation. The ~~division~~ **Division of Public School Academic Facilities and Transportation** shall base its decision on several factors, including, without limitation:

(A) Compliance with appropriate academic facility standards, including, without limitation, appropriate space utilization;

(B) The amount and availability of insurance or other public or private emergency assistance;

(C) The academic facilities wealth index of the school district; and

(D) The prudent and resourceful expenditure of state funds with regard to public school academic facilities.

(e)(1)(A) If a school district qualifies for state financial participation under this section, the ~~division~~ **Division of Public School Academic Facilities and Transportation** shall certify the amount of state financial participation to the Commission for Arkansas Public School Academic Facilities and Transportation.

(B) The amount of state financial participation under this section shall not exceed the amount resulting from the application of the academic facilities wealth index to the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facility Manual, less any withholding or reduction imposed by the commission under § 6–21–114(d) for a school district's failure to comply with the commission's insurance requirements, including without limitation, the failure to carry replacement cost coverage, if applicable, on all buildings and facilities.

(2)(A) The commission shall certify the amount to the ~~Department of Education~~ **Division of Elementary and Secondary Education** for payment.

(B) For tracking purposes, the school district shall account for the funds received as a state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6–20–2201 et seq., and rules established by the State Board of Education and the commission.

(f) Every effort shall be made to conform a catastrophic project to current academic facilities standards, including appropriate space utilization requirements, unless in the judgment of the ~~division~~ **Division of Public School Academic Facilities and Transportation** it is impractical to conform the catastrophic project to current standards.

SECTION 1714. Arkansas Code § 6–20–2511(b), concerning high-growth school districts, is amended to read as follows:

<< AR ST § 6–20–2511 >>

(b) There is established the Academic Facilities High–Growth School District Loan Program under which the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide an interest-free loan to a high-growth school district in which the mills required to service the bonded indebtedness incurred for academic facilities exceeds **exceed** the maximum expected millage for the high-growth school district.

SECTION 1715. Arkansas Code § 6–20–2511(d)(3)(C), concerning high-growth school districts, is amended to read as follows:

<< AR ST § 6–20–2511 >>

(C) Shall not otherwise change the amount of revenues available to repay the loan without the prior approval of the ~~department~~ **Division of Elementary and Secondary Education**.

SECTION 1716. Arkansas Code § 6–20–2511(e) and (f), concerning high-growth school districts, are amended to read as follows:

<< AR ST § 6–20–2511 >>

(e) Within a reasonable time after its receipt, each application under subsection (c) of this section shall be examined by the department **Division of Elementary and Secondary Education** in accordance with rules established by the State Board of Education as to the accuracy of the answers contained therein.

(f)(1) After considering the merits of each application, the department **Division of Elementary and Secondary Education** may, in its discretion, approve the application for the full amount of the proposed loan, approve the application for a loan of a lesser amount than the amount requested, or disapprove the application.

(2) Before approving the application, the department **Division of Elementary and Secondary Education** shall make a determination that the total space available in the high-growth school district is less than the amount needed to accommodate the growth of students.

SECTION 1717. Arkansas Code § 6–20–2516(f)–(i), concerning the creation of the Academic Facilities Review Board, are amended to read as follows:

<< AR ST § 6–20–2516 >>

(f) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide staff support for the board's activities.

(g)(1) Members of the board shall serve without pay.

(2) Members of the board may receive expense reimbursement in accordance with § 25–16–902, to be paid by the department **Division of Elementary and Secondary Education** to the extent money is available for that purpose.

(h) The board shall establish policies and procedures for conducting hearings and appeals.

(i)(1) Following the hearing at which all testimony and evidence are presented, the board shall make a final determination accepting, rejecting, or modifying the determination of the ~~division~~ **Division of Public School Academic Facilities and Transportation**.

(2) Within ten (10) business days, the board shall provide to the appellant public school district and to the ~~division~~ **Division of Public School Academic Facilities and Transportation** a notice of the board's final determination.

(3)(A) If the board's final determination will result in a greater level of state financial participation in a project than previously authorized by the ~~division~~ **Division of Public School Academic Facilities and Transportation**, the board's final determination shall be reviewed by the commission in accordance with procedures developed by the commission.

(B) A decision of the commission resulting from a review of a decision of the board under this section is final and is not subject to:

(i) Further appeal to the commission;

(ii) Request for rehearing by the commission; or

(iii) Petition for judicial review under the Arkansas Administrative Procedure Act, § 25–15–201 et seq.

SECTION 1718. Arkansas Code § 6–20–2517(b)(13)(B), concerning nursing centers in new schools, is amended to read as follows:

<< AR ST § 6–20–2517 >>

(B) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may purchase appropriate software that is accessible to a school district depending on the availability of funding;

SECTION 1719. The introductory language of Arkansas Code § 6–21–106(g), concerning fire hazard inspection at schools prior to closing for breaks, is amended to read as follows:

<< AR ST § 6–21–106 >>

(g) The chief executive officer of the fire department shall notify the State Fire Marshal Enforcement Section of the ~~Department~~ **Division** of Arkansas State Police and the ~~Department of Education~~ **Division of Elementary and Secondary Education** if:

SECTION 1720. Arkansas Code § 6–21–112(e), concerning the Division of Public School Academic Facilities and Transportation, is amended to read as follows:

<< AR ST § 6–21–112 >>

(e)(1) The ~~Director of the Department of Information Systems~~ **Secretary of the Department of Transformation and Shared Services** shall assign one (1) individual to serve as a technology liaison to the Division of Public School Academic Facilities and Transportation.

(2) The ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** shall assign one (1) individual from the staff of the Building Authority ~~Division of the Department of Finance and Administration~~ to serve as a physical plant liaison to the Division of Public School Academic Facilities and Transportation.

SECTION 1721. Arkansas Code § 6–21–112(h), concerning the creation of the Division of Public School Academic Facilities and Transportation, is amended to read as follows:

<< AR ST § 6–21–112 >>

(h) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall coordinate and share certain administrative, custodial, legal, internal finance, and other necessary personnel and responsibilities to effectuate the daily operations of the Division of Public School Academic Facilities and Transportation and the ~~Department~~ **Division** of Information Systems.

SECTION 1722. Arkansas Code § 6–21–114(a)(1) and (2), concerning the creation of the Commission for Arkansas Public School Academic Facilities and Transportation, are amended to read as follows:

<< AR ST § 6–21–114 >>

(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration;

(2) The Commissioner of **Elementary and Secondary** Education; and

SECTION 1723. Arkansas Code § 6–21–114(b)(1), concerning the creation of the Commission for Arkansas Public School Academic Facilities and Transportation, is amended to read as follows:

<< AR ST § 6–21–114 >>

(b)(1) The members of the commission shall meet and organize immediately after March 29, 2005. The Commissioner of **Elementary and Secondary** Education shall be the chair of the commission.

SECTION 1724. Arkansas Code § 6–21–114(c), concerning the creation of the Commission for Arkansas Public School Academic Facilities and Transportation, is amended to read as follows:

<< AR ST § 6–21–114 >>

(c) Staff support shall be provided by appropriate personnel of the Department of Finance and Administration, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the Arkansas Development Finance Authority, and the ~~division~~ **Division of Public School Academic Facilities and Transportation**.

SECTION 1725. Arkansas Code § 6–21–114(d)(1), concerning the creation of the Commission for Arkansas Public School Academic Facilities and Transportation, is amended to read as follows:

<< AR ST § 6–21–114 >>

(1) Oversee the operations of the ~~division~~ **Division of Public School Academic Facilities and Transportation**;

SECTION 1726. Arkansas Code § 6–21–115(a) and (b), concerning the name, operation, and director of the Division of Public School Academic Facilities and Transportation, are amended to read as follows:

<< AR ST § 6–21–115 >>

(a) The division established under § 6–21–112 **within the Division of Elementary and Secondary Education** shall be known as the “Division of Public School Academic Facilities and Transportation” ~~of the Department of Education~~ .

(b)(1) The ~~division~~ **Division of Public School Academic Facilities and Transportation** shall operate under the direction, control, and supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.

(2) The ~~division~~ **Division of Public School Academic Facilities and Transportation** shall not operate under the direction, control, and supervision of the State Board of Education.

SECTION 1727. Arkansas Code § 6–21–303(c), concerning soliciting bids for the procurement of commodities by the board of directors of each school district, is amended to read as follows:

<< AR ST § 6–21–303 >>

(c) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may grant a waiver of the requirements of subsection (b) of this section if a school district requests a waiver and the school district is in fiscal distress.

SECTION 1728. Arkansas Code § 6–21–304(a)(1)(B), concerning the manner of making purchases by a school district, is amended to read as follows:

<< AR ST § 6–21–304 >>

(B) Annually on July 1, the Commissioner of **Elementary and Secondary** Education shall adjust the purchase price amounts under subdivision (a)(1)(A) of this section by the percentage change in the Consumer Price Index for All Urban Consumers or its successor.

SECTION 1729. Arkansas Code § 6–21–403(d), concerning the public school district requirements for instruction material, is amended to read as follows:

<< AR ST § 6–21–403 >>

(d)(1)(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall monitor to ensure that all school districts in Arkansas comply with this section.

(B) The ~~department~~ **division** shall report in the annual school performance report a school district that fails to provide instructional materials, including the availability of any equipment needed to access the instructional materials.

(2) The state board, through the ~~department~~ **division**, may promulgate rules as may be necessary to carry out this subchapter and shall report to the members of the House Committee on Education and Senate Committee on Education annually any school district out of compliance by November 1 of each year.

SECTION 1730. Arkansas Code § 6–21–410(a)(1), concerning illegal acts involving school officials, is amended to read as follows:

<< AR ST § 6–21–410 >>

(a)(1) It shall be illegal for the Commissioner of **Elementary and Secondary** Education or any other employee connected with the ~~Department of Education~~ **Division of Elementary and Secondary Education**, any member of any selecting committee, or any member of any school district board of directors to accept or receive any money, gift, property, or favor whatsoever from any person, firm, or corporation, or any agent thereof offering for sale any item pursuant to this subchapter or from any person in any way interested in such sale.

SECTION 1731. Arkansas Code § 6–21–410(c)(1), concerning illegal acts involving school officials, is amended to read as follows:

<< AR ST § 6–21–410 >>

(c)(1) It shall be illegal for any person directly or indirectly to promise or offer to give or cause to be promised, offered, or given any money, good, bribe, present, reward, or any valuable thing whatsoever to the commissioner, his or her assistants, or any other employee of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the Director of the ~~Department~~ **Division** of Career **and Technical** Education, his or her assistants or any other employee of the ~~Department~~ **Division** of Career **and Technical** Education, any school district board members, teachers, or other persons with the intent of influencing their decisions on any questions, matters, causes, or proceedings in the selection of instructional materials.

SECTION 1732. Arkansas Code § 6-21-811 is amended to read as follows:

<< AR ST § 6-21-811 >>

6-21-811. Academic Facilities Distress Program.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation shall classify a public school or school district as being in academic facilities distress if the Division of Public School Academic Facilities and Transportation recommends and the commission concurs that the public school or school district has engaged in actions or inactions that result in any of the following:

(1) Any act or violation determined by the ~~division~~ **Division of Public School Academic Facilities and Transportation** to jeopardize any academic facility used by a public school or school district, including, but not limited to:

(A) Material failure to properly maintain academic facilities in accordance with this subchapter and rules adopted by the commission;

(B) Material violation of local, state, or federal fire, health, or safety code provisions or laws;

(C) Material violation of applicable building code provisions or law;

(D) Material failure to provide timely and accurate facilities master plans to the ~~division~~ **Division of Public School Academic Facilities and Transportation**;

(E) Material failure to comply with state law governing purchasing, bid requirements, or school-construction-related laws or rules in relation to academic facilities projects;

(F) Material default on any school district debt obligation; or

(G) Material failure to plan and progress satisfactorily toward accomplishing the priorities established by the ~~division~~ **Division of Public School Academic Facilities and Transportation** and the approved school district's facilities master plan; and

(2) Any other condition of an academic facility or facilities in a public school or school district that is determined by the ~~division~~ **Division of Public School Academic Facilities and Transportation** to have a detrimental impact on educational services provided by that public school or school district.

(b) The ~~division~~ **Division of Public School Academic Facilities and Transportation** shall provide written notice, via certified mail, return receipt requested, to the president of the board of directors and the superintendent of the school district identified or containing a school identified by the ~~division~~ **Division of Public School Academic Facilities and Transportation** as being in facilities distress.

(c)(1) By August 31 of each year, the ~~division~~ **Division of Public School Academic Facilities and Transportation** shall notify the superintendent of a school district if the ~~division~~ **Division of Public School Academic Facilities and Transportation** is aware the school district has experienced two (2) or more indicators of facilities distress in one (1) school year that the ~~division~~ **Division of Public School Academic Facilities and Transportation** deems to be nonmaterial but that without intervention could place the district in facilities distress.

(2) The superintendent of a school district shall report to the ~~division~~ **Division of Public School Academic Facilities and Transportation** if the superintendent is aware the school district has experienced two (2) or more indicators of facilities distress in one (1) school year that the superintendent deems to be nonmaterial but that without intervention could place the district in facilities distress.

(3)(A) The ~~division~~ **Division of Public School Academic Facilities and Transportation** and the superintendent shall review all data related to the nonmaterial indicators of facilities distress.

(B)(i) Within thirty (30) days of the ~~division's~~ **Division of Public School Academic Facilities and Transportation's** determination that the school district may be experiencing facilities distress at a nonmaterial level, the ~~division~~ **Division of Public School Academic Facilities and Transportation** shall provide a notice to the school district's superintendent and board of directors that:

(a) Describes the nonmaterial indicators of facilities distress that could have a detrimental impact on educational services provided by the affected public school or the school district if not addressed; and

(b) Identifies the support available from the ~~division~~ **Division of Public School Academic Facilities and Transportation** to address each nonmaterial indicator of facilities distress.

(ii) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of nonmaterial indicators of facilities distress.

(4)(A) If any condition of an academic facility raises a significant health or safety issue, the superintendent of the school district where the academic facility is located or the person responsible for the management of the academic facility shall immediately notify the ~~division~~ **Division of Public School Academic Facilities and Transportation** and the board of directors of the school district.

(B) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of the significant health or safety issue.

(d)(1) A public school or school district classified by the commission as being in facilities distress shall develop a facilities improvement plan within thirty (30) days from the date of classification and promptly submit the facilities improvement plan to the ~~division~~ **Division of Public School Academic Facilities and Transportation** for review and approval.

(2) A public school or school district shall review and revise its facilities improvement plan on a periodic basis as determined by the ~~division~~ **Division of Public School Academic Facilities and Transportation** and submit the updated facilities improvement plan to the ~~division~~ **Division of Public School Academic Facilities and Transportation** in order for the ~~division~~ **Division of Public School Academic Facilities and Transportation** to determine whether the public school or school district is correcting its deficient areas of practice regarding academic facilities.

(3) A school district shall use facilities improvement plans as necessary to supplement and update its facilities master plan.

(e)(1) Every two (2) years, the ~~division~~ **Division of Public School Academic Facilities and Transportation** shall determine whether the progress of each school district complies with the school district's facilities master plan and shall notify the school district of any noncompliance.

(2) Every two (2) years, the ~~division~~ **Division of Public School Academic Facilities and Transportation** shall review the applications made for the Academic Facilities Partnership Program established under § 6-20-2507, to identify any school district that did not apply for state funding for necessary facilities to meet adequacy requirements and shall notify the school district of any deficiencies.

(3) Within thirty (30) days of receiving the notice provided under subdivision (e)(1) or **subdivision (e)(2)** of this section, the school district shall submit a facilities improvement plan to the ~~division~~ **Division of Public School Academic Facilities and Transportation** for its review and approval that states how the school district will address the noncompliance issues contained in the notice.

(4) If the ~~division~~ **Division of Public School Academic Facilities and Transportation** does not approve the facilities improvement plan submitted by the school district, it shall identify the school district as being in facilities distress.

(5) A school district may appeal the identification of the ~~division~~ **Division of Public School Academic Facilities and Transportation** under this subsection to the commission pursuant to the procedures established by the commission; .

(f)(1)(A) Within ten (10) days of a school district's failure to pass a millage required to fulfill its obligations under the school district's facilities master plan, the ~~division~~ **Division of Public School Academic Facilities and Transportation** shall provide written notice to the school district of the date, time, and place for a conference with the school district at which the ~~division~~ **Division of Public School Academic Facilities and Transportation** will:

(i) Determine whether as a result of the failed millage there are facilities issues relating to:

(a) Immediate repairs under § 6–20–2504(b)(4) [repealed];

(b) The presence and number of suitability needs of public school academic facilities, which shall be defined by rule; or

(c) Immediate need for academic facilities to meet student growth; and

(ii) Thoroughly discuss and explain the sanctions and requirements that are available to the commission if the school district or a school within the district is classified by the commission as being in facilities distress under this section and § 6–21–812.

(B) The written notice shall be provided via certified mail to the president of the school district board of directors and the superintendent of the school district.

(C) The commission shall establish rules for the implementation of this subdivision (f)(1).

(2)(A) If the commission determines that there are immediate repairs, growth, or suitability issues that require expedited attention, the commission may direct the school district to conduct a special election to vote on a millage increase.

(B)(i) The ~~division~~ **Division of Public School Academic Facilities and Transportation** and the school district shall agree upon the issues to be submitted for a vote in the special election.

(ii) The special election may not include any issues other than the issues that are mutually agreed upon.

(C) The special election shall be held on a date that is:

(i) Mutually agreed upon by the ~~division~~ **Division of Public School Academic Facilities and Transportation** and the school district; and

(ii) Not later than seven (7) months from the date of the election at which the millage failed unless it is necessary to extend the date beyond seven (7) months because of restrictions on the number of elections that may be held within a calendar year.

(D) If within ninety (90) days from the notice provided to the school district under subdivision (f)(1)(A) of this section the school district has not set an election date, the ~~division~~ **Division of Public School Academic Facilities and Transportation** shall identify the school district as being in facilities distress.

(E)(i) If the school district is able to finance the immediate repairs, growth, and suitability improvements without the necessity of a special election on increasing its millage, the school district may enter into an agreement with the ~~division~~ **Division of Public School Academic Facilities and Transportation** to fund its improvements separately, which shall include an implementation timeframe.

(ii) The ~~division~~ **Division of Public School Academic Facilities and Transportation** shall identify the school district as being in facilities distress for failure to implement the agreed upon plan for immediate repairs, growth, and suitability improvements within the timeframe specified in the agreement.

(g) When a school district is classified by the commission to be in facilities distress, the ~~division~~ **Division of Public School Academic Facilities and Transportation** may with the approval of the commission:

(1)(A) Provide on-site technical evaluation and assistance and make written recommendations to the school district superintendent regarding the care and maintenance of any academic facility in the school district.

(B) Any school district classified as being in facilities distress status shall accept on-site technical evaluation and assistance from the ~~division~~ **Division of Public School Academic Facilities and Transportation**.

(C) The written recommendations of the ~~division~~ **Division of Public School Academic Facilities and Transportation** are binding on the school district, the superintendent, and the board of directors;

(2) Remove permanently, reassign, or suspend on a temporary basis the superintendent of the school district, and:

(A) Appoint an individual in place of the superintendent to administratively operate the school district under the supervision and approval of the Commissioner of **Elementary and Secondary** Education; and

(B) Compensate from school district funds the individual appointed to operate the school district;

(3) Suspend or remove some or all of the current board of directors and call for the election of a new board of directors for the school district, in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(4) Require the school district to operate without a board of directors under the supervision of the superintendent or an individual or panel appointed by the commissioner;

(5) Waive the application of Arkansas law or the corresponding State Board of Education rules and regulations, with the exception of:

(A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.; and

(B) The Public School Employee Fair Hearing Act, § 6-17-1701 et seq.;

(6) In the absence of a school district board of directors, direct the commissioner to assume all authority of the board of directors as may be necessary for the day-to-day governance of the school district;

(7)(A) Return the administration of the school district to the former board of directors or place the administration of the school district in a newly elected board of directors if:

(i) The ~~division~~ **Division of Public School Academic Facilities and Transportation** certifies in writing to the commission and to the school district that the school district has corrected all issues that caused the classification of facilities distress; and

(ii) The commission determines the school district has corrected all issues that caused the classification of facilities distress.

(B) If the ~~division~~ **Division of Public School Academic Facilities and Transportation** calls for an election of a new school district board of directors, the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(8) Require school district staff and employees to attend training in areas of concern for the public school or school district;

(9)(A) Require a school district to cease all expenditures related to activities not described as part of an adequate education in § 6–20–2302 and place money that would have been spent on the activities into an academic facilities escrow account to be released only upon approval by the ~~division~~ **Division of Public School Academic Facilities and Transportation** for use in conjunction with a local academic facilities project.

(B) School districts shall include a clause addressing this contingency in all contracts with personnel who are involved with activities not described as part of an adequate education;

(10) Notify the public school or school district in writing that the deficiencies regarding academic facilities shall be corrected within a time period designated by the ~~division~~ **Division of Public School Academic Facilities and Transportation**;

(11)(A) Petition the state board at any time for the consolidation, annexation, or reconstitution of a school district in facilities distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interest of students in the school district.

(B) The state board may approve the petition or take other appropriate action as allowed by this subchapter.

(C) Except as set forth in subdivision (g)(11)(D) of this section or subsection (n) of this section, the state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in facilities distress within five (5) consecutive school years of classification of facilities distress status.

(D) The state board may grant additional time for a public school or school district to remove itself from facilities distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from facilities distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district;

(12) Correct the failure of a school district to complete its agreed plan or to pass the millage in the special election under subdivision (f)(2) of this section by contracting for and completing the necessary improvements under the agreed plan;

(13)(A) If the ~~division~~ **Division of Public School Academic Facilities and Transportation** recommends and the commission concurs that the academic facilities in the public school district in facilities distress are inadequate to provide an adequate education, the state board may dissolve the school district and transfer students to public schools in other public school districts.

(B) The state board shall assign the public school district's territory, property, and debt; and

(14) Take any other action allowed by law that is deemed necessary to assist a public school or school district in correcting the issues that caused the classification of facilities distress, to secure and protect the best interest of the educational resources of the state, or to provide for the best interest of students in the school district.

(h) No school district identified by the ~~division~~ **Division of Public School Academic Facilities and Transportation** as being in facilities distress may incur any debt without the prior written approval of the commission.

(i) A public school or school district in facilities distress may petition the commission for removal from facilities distress status only after the ~~division~~ **Division of Public School Academic Facilities and Transportation** has certified in writing that the public school or school district has corrected all criteria for being classified as in facilities distress and has complied with all ~~division~~ **Division of Public School Academic Facilities and Transportation** recommendations and requirements for removal from facilities distress status.

(j) The ~~division~~ **Division of Public School Academic Facilities and Transportation** shall submit a written evaluation on the status of each school district in facilities distress to the commission and the state board at least one (1) time every six (6) months.

(k)(1)(A) If a school district is classified by the commission as being in facilities distress and has immediate repairs, growth, or suitability improvement issues, the ~~division~~ **Division of Public School Academic Facilities and Transportation**, in addition to any other remedy under this section and § 6–21–812, may provide a loan to the school district to be repaid from any funds available that are not required to provide an adequate education.

(B)(i) Funds available that are not required to provide an adequate education include:

(a) Fund balances and any cash on hand that are not part of foundation funding or categorical funding under § 6–20–2305 and are not otherwise required to provide an adequate education for students in the public school district; and

(b) Revenues that are not obligated on bonds.

(ii) Funds remaining after the annual payment on a bond obligation are included in funds that are not required to provide an adequate education.

(2) The public school district shall repay the loan on the schedule determined by the ~~division~~ **Division of Public School Academic Facilities and Transportation**.

(l) The commission in conjunction with the Academic Facilities Oversight Committee shall:

(1) Reexamine the role and function of the State Facility Assessment of 2004;

(2) Assess the progress made by the state in the mandates of the Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W.3d 472 (2002); and

(3) Make needed changes in the implementation of the academic facilities program by modifying the commission's rules.

(m) If the ~~division~~ **Division of Public School Academic Facilities and Transportation** or **the** commissioner assumes authority over a public school district in facilities distress under subsection (g) of this section, the commission may pursue the following process for returning a public school district to the local control of its residents:

(1) During the second full school year following the assumption of authority, the commission shall determine the extent of the school district's progress toward correcting all issues that caused the classification of facilities distress;

(2)(A) If the commission determines that sufficient progress has been made by a school district toward correcting all criteria for being classified as in facilities distress, but the school district has not yet resolved all issues that caused the classification of facilities distress, the commissioner, with the approval of the commission, may appoint a community advisory board of either five (5) or seven (7) members to serve under the supervision and approval of the commissioner.

(B) The members of the community advisory board shall be residents of the school district and shall serve on a voluntary basis without compensation.

(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.

(D) The duties of the community advisory board include without limitation:

(i) Meeting monthly during a regularly scheduled public meeting with the state-appointed administrator regarding the progress of the school or school district toward correcting all issues that caused the classification of facilities distress;

(ii) Seeking community input from the residents of the school district regarding the progress of the school or school district toward correcting all issues that caused the classification of facilities distress;

(iii) Conducting hearings and making recommendations to the commissioner regarding personnel and student discipline matters as set forth in the appropriate district policies;

(iv) Working to build community capacity for the continued support of the school district; and

(v) Submitting quarterly reports to the commissioner and the commission regarding the progress of the school or school district toward correcting all issues that caused the classification of facilities distress.

(E) The members of the community advisory board shall serve at the pleasure of the commissioner until:

(i) The school district is returned to local control and a permanent school district board of directors is elected and qualified; or

(ii) The state board, upon petition of the commission or ~~division~~ **the Division of Public School Academic Facilities and Transportation**, annexes, consolidates, or reconstitutes the school district pursuant to this title or under another provision of law;

(3) By April 1 of each year following the appointment of a community advisory board pursuant to subdivision (m)(2) of this section, the commission shall determine the extent of the school district's progress toward correcting all criteria for being classified as in facilities distress and shall:

(A) Allow the community advisory board to remain in place for an additional year;

(B)(i) Return the school district to local control by calling for the election of a newly elected school district board of directors if:

(a) The ~~division~~ **Division of Public School Academic Facilities and Transportation** certifies in writing to the commission and to the school district that the school district has corrected all issues that caused the classification of facilities distress; and

(b) The commission determines the school district has corrected all issues that caused the classification of facilities distress.

(ii) If the ~~division~~ **Division of Public School Academic Facilities and Transportation** or **the** commission calls for an election of a new school district board of directors, the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law; or

(C) Petition the state board for the annexation, consolidation, or reconstitution of the school district under this section; and

(4)(A) If the ~~division~~ **Division of Public School Academic Facilities and Transportation**, with the approval of the commission, calls for an election of a new school district board of directors pursuant to subdivision (g)(7) of this section, the commissioner, with the approval of the commission, may appoint an interim board of directors to govern the school district until a permanent school district board of directors is elected and qualified.

(B) The interim board of directors shall consist of either five (5) or seven (7) members.

(C) The members of the interim board of directors shall be residents of the school district and otherwise eligible to serve as board members under applicable law.

(D) The members of the interim board of directors shall serve on a voluntary basis without compensation.

(n)(1) If, by the end of the fifth school year following the school district's classification of facilities distress status, the school district in facilities distress has not corrected all issues that caused the classification of facilities distress, the state board, upon petition from the commission or ~~division~~ **the Division of Public School Academic Facilities and Transportation** and after a public hearing, shall consolidate, annex, or reconstitute the school district under this section.

(2) The state board may grant additional time for a public school or school district to remove itself from facilities distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from facilities distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.

(o) This section does not prevent the ~~division~~ **Division of Public School Academic Facilities and Transportation**, the commission, or state board from taking any of the actions listed in this section at any time to address a public school or school district in facilities distress.

SECTION 1733. Arkansas Code § 6-23-103(3)(A), concerning the definition of “authorizer” under the Arkansas Quality Charter Schools Act of 2013, is amended to read as follows:

<< AR ST § 6-23-103 >>

(A) ~~Department of Education~~ **Division of Elementary and Secondary Education**; or

SECTION 1734. Arkansas Code § 6-23-105(d)(2)(A), concerning the basis and procedure for public charter school probation or charter modification, revocation, or denial of renewal, is amended to read as follows:

<< AR ST § 6-23-105 >>

(2)(A) The hearing shall be held at the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1735. Arkansas Code § 6-23-105(e), concerning the basis and procedure for public charter school probation or charter modification, revocation, or denial of renewal, is amended to read as follows:

<< AR ST § 6-23-105 >>

- (e)(1)(A) Immediately upon the revocation of a charter by the authorizer, the public charter school shall:
- (i) Transfer to the ~~department~~ **division** all state funds held by the public charter school, which the ~~department~~ **division** shall hold in receivership; and
 - (ii) Provide to the ~~department~~ **division** a detailed accounting of all accounts payable due from the state funds and any additional information or records requested by the ~~department~~ **division** concerning the disbursement of the state funds.
- (B) The ~~department~~ **division** shall hold funds received under subdivision (e)(1)(A) of this section in a separate fund and shall expend the funds only with prior approval of the Commissioner of **Elementary and Secondary** Education.
- (C) If the State Board of Education reverses the revocation, the ~~department~~ **division** shall return any funds remaining in receivership to the public charter school.
- (2)(A) The ~~department~~ **division** shall establish a procedure for a claimant to file a claim for disbursement from the state funds.
- (B) The determination of the ~~department~~ **division** concerning the disbursement of the state funds is final and may not be appealed.
- (3) If funds remain in receivership for which no legitimate, documented claim has been made to the ~~department~~ **division** within one (1) calendar year after the revocation, the remaining funds shall be transferred to the Public School Fund.
- (4) The state board may promulgate rules to implement this subsection.

SECTION 1736. Arkansas Code § 6–23–107 is amended to read as follows:

<< AR ST § 6–23–107 >>

6–23–107. Reporting requirements.

- (a) Within ten (10) calendar days of the close of the first quarter of each school year, a public charter school shall submit a written report to the ~~Department of Education~~ **Division of Elementary and Secondary Education** that contains the following information for the current school year:
- (1) The number of applications for enrollment received;
 - (2) The number of applicants with a disability identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and
 - (3) The number of applications for enrollment the public charter school denied and an explanation of the reason for each denial.
- (b) Within ten (10) calendar days of the close of the fourth quarter of each school year, a public charter school shall submit a written report to the ~~department~~ **division** that contains the following information for the current school year:
- (1) The number of students in each of the following categories:
 - (A) Students who dropped out of the public charter school during the school year;
 - (B) Students who were expelled during the school year by the public charter school; and

(C) Students who were enrolled in the public charter school but for a reason other than those cited in subdivisions (b)(1)(A) and (B) of this section did not complete the school year at the public charter school; and

(2)(A) For all students enrolled in the public charter school, the scores for assessments required under the Arkansas Educational Support and Accountability Act, § 6–15–2901 et seq.

(B) If there is any discrepancy in the number of students for whom scores are reported under this subdivision (b)(2) and the number of students enrolled at the beginning of the school year, the public charter school shall explain in the report the reason for the discrepancy.

(c) The ~~department~~ **division** shall not exempt a public charter school from the reporting required under this section.

(d) The ~~department~~ **division** shall publish a copy of each report on the ~~department's~~ **division's** website.

(e) If a public charter school fails to comply with this section, the ~~department~~ **division** shall note the failure in the annual evaluation of the public charter school.

SECTION 1737. Arkansas Code § 6–23–108(b)(3), concerning a school for agricultural studies, is amended to read as follows:

<< AR ST § 6–23–108 >>

(3) A written review of the agricultural studies plan from the ~~Department~~ **Division** of Career **and Technical** Education.

SECTION 1738. Arkansas Code § 6–23–203(b), concerning the resubmission of applications for a conversion to an open-enrollment public charter school, is amended to read as follows:

<< AR ST § 6–23–203 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may provide technical assistance to the conversion public charter school applicants in the:

(1) Creation of its application; and

(2) Modification of its application as directed by the authorizer.

SECTION 1739. 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:

<< AR ST § 6–23–304 >>

(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 1740. 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:

<< AR ST § 6-23-304 >>

(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 1741. 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:

<< AR ST § 6-23-304 >>

(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 1742. 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:

<< AR ST § 6-23-305 >>

(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 authorizer.

SECTION 1743. Arkansas Code § 6-23-402(c), concerning enrollment numbers and deadlines for an open-enrollment public charter school, is amended to read as follows:

<< AR ST § 6-23-402 >>

(c) Open-enrollment public charter schools shall keep records of attendance in accordance with the law and submit quarterly attendance reports to the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1744. Arkansas Code § 6-23-404(a), concerning the evaluation of an open-enrollment public charter school, is amended to read as follows:

<< AR ST § 6-23-404 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall cause to be conducted an annual evaluation of open-enrollment public charter schools.

SECTION 1745. Arkansas Code § 6-23-405 is amended to read as follows:

<< AR ST § 6-23-405 >>

6-23-405. Monthly reports.

An open-enrollment public charter school in its initial school year of operation shall provide monthly reports on its enrollment status and compliance with its approved budget for the current school year to the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1746. Arkansas Code § 6-23-406 is amended to read as follows:

<< AR ST § 6-23-406 >>

6-23-406. ~~Department of Education~~ **Division of Elementary and Secondary Education review.**

The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall:

- (1) Conduct an end-of-semester review of each open-enrollment public charter school that is in its initial school year of operation at the end of the first semester and at the end of the school year; and
- (2) Report to the State Board of Education and the Commissioner of **Elementary and Secondary** Education on the open-enrollment public charter school's:
 - (A) Overall financial condition; and
 - (B) Overall condition of student enrollment.

SECTION 1747. Arkansas Code § 6-23-501(a)(5) and (6), concerning funding for open-enrollment public charter schools, are amended to read as follows:

<< AR ST § 6-23-501 >>

- (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 1748. Arkansas Code § 6-23-506(b)(1), concerning the assets of a school as property of the state, is amended to read as follows:

<< AR ST § 6-23-506 >>

- (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 1749. Arkansas Code § 6-23-701 is amended to read as follows:

<< AR ST § 6-23-701 >>

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.

(b)(1) The department **division** shall exercise authority over public charter schools under this chapter through a public charter authorizing panel established within the department **division**.

(2)(A) The Commissioner of **Elementary and Secondary Education** shall appoint a public charter authorizing panel that may consist of individuals from outside the department **division** as well as professional staff employed at the department **division** to serve at the pleasure of the commissioner.

(B) The commissioner may elect to serve as a member on the charter authorizing panel as the chair.

(3) The public charter authorizing panel is composed of an odd number of members and consists of no less than five (5) members and no more than eleven (11) members.

(c) The department **division** may waive provisions of Title 6 or State Board of Education rules as allowed by law for public charters.

(d)(1) The department **division** shall conduct all hearings on public charter school matters as required by law, rule, and process and make final determinations as allowed by law.

(2)(A) A hearing under this chapter conducted by the department **division** shall be an open meeting under § 25–19–106.

(B) For the purposes of § 25–19–106, the members of the public charter authorizing panel shall be considered a governing body only in regard to actions specifically authorized by this subchapter.

(3)(A) All decisions of the panel shall be made by majority vote of the quorum.

(B) A decision of the department **division** is final except as provided under § 6–23–703.

(4) The Arkansas Administrative Procedure Act, § 25–15–201 et seq., shall not apply to a hearing concerning a public charter school.

(e) The department **division** shall be the primary authorizer of public charters except as provided under § 6–23–703.

SECTION 1750. Arkansas Code § 6-23-702(b), concerning public charter authorizing procedures, is amended to read as follows:

<< AR ST § 6-23-702 >>

(b)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall notify in writing the State Board of Education, charter applicant, public charter school, and affected school districts, if any, of final decisions made by the ~~department~~ **division** no less than fourteen (14) calendar days before the next regularly scheduled State Board of Education meeting after the final decision is made by the ~~department~~ **division**.

(2)(A) A charter applicant, public charter school, and affected school district, if any, may submit in writing a request that the state board review the final decision of the ~~department~~ **division** under § 6-23-703.

(B) The written request submitted under subdivision (b)(2)(A) of this section shall state the specific reasons supporting a review by the state board.

(3) The decision of whether to review a final decision of the ~~department~~ **division** is discretionary by the state board and the provisions of this section and § 6-23-703 do not grant any right of appeal to a charter applicant, public charter school, or affected school district.

SECTION 1751. Arkansas Code § 6-23-703 is amended to read as follows:

<< AR ST § 6-23-703 >>

6-23-703. State Board of Education optional review.

(a) On a motion approved by a majority vote, the State Board of Education may exercise a right of review of a charter determination made by the ~~Department of Education~~ **Division of Elementary and Secondary Education** at the next regularly scheduled state board meeting after receiving notice provided under § 6-23-702(b).

(b) If the state board votes to review a final decision made by the ~~department~~ **division**, the state board shall:

(1) State the specific additional information the state board requires from the ~~department~~ **division**, public charter school, public charter school applicant, or affected school district;

(2) Conduct a full hearing regarding a final decision by the ~~department~~ **division** under § 6-23-701(a); and

(3) Hold the hearing at the earlier of:

(A) The next regularly scheduled state board meeting following the state board meeting during which the state board voted to authorize a review; or

(B) A special board meeting called by the state board.

(c)(1) At the conclusion of the hearing, the state board may issue a final decision by state board vote.

(2) The state board may decide by majority vote of the quorum to:

(A) Affirm the decision of the ~~department~~ **division**;

(B) Take other lawful action on the public charter; or

(C)(i) Request additional information from the ~~department~~ **division**, public charter school, public charter school applicant, or affected school district, if needed.

(ii) If the state board requests additional information under subdivision (c)(2)(C)(i) of this section, the state board shall hold a subsequent hearing at the earlier of:

(a) The next regularly scheduled state board meeting; or

(b) A special board meeting called by the state board.

(3) A decision made by the state board is final with no right of appeal.

(d) The state board may promulgate rules as necessary to implement this section.

SECTION 1752. Arkansas Code § 6–23–907(a), concerning the failure to remit payment by an open-enrollment public charter school, is amended to read as follows:

<< AR ST § 6–23–907 >>

(a) If an open-enrollment public charter school fails to remit payment for an outstanding loan under the Open–Enrollment Public Charter School Facilities Loan Fund, upon certification of the amount of delinquent funds by the Division of Public School Academic Facilities and Transportation, the amount of delinquent funds including penalties and interest may be deducted from the operating funds designated to the open-enrollment public charter school through the ~~Department of Education~~ **Division of Elementary and Secondary Education** and remitted directly by the ~~department~~ **Division of Elementary and Secondary Education** to the Open–Enrollment Public Charter School Facilities Loan Fund if requested by the ~~division~~ **Division of Public School Academic Facilities and Transportation**.

SECTION 1753. Arkansas Code § 6–23–908(e)(1) and (2), concerning the Open–Enrollment Public Charter School Facilities Funding Aid Program, are amended to read as follows:

<< AR ST § 6–23–908 >>

(e)(1) If an open-enrollment public charter school fails to use funds received under this section as provided under subsection (d) of this section or no longer has the need for the funds, the ~~division~~ **Division of Public School Academic Facilities and Transportation** shall certify and recoup the funds from the operating funds designated to the open-enrollment public charter school through the ~~Department of Education~~ **Division of Elementary and Secondary Education** and remitted directly by the ~~department~~ **Division of Elementary and Secondary Education**.

(2) The operating funds from which the ~~division~~ **Division of Public School Academic Facilities and Transportation** may recoup funds from an open-enrollment public charter school are limited to:

(A) State funding distributed under § 6–20–2305, including without limitation state foundation funding and state categorical funding;

(B) Federal funding to the extent allowed under federal law; and

(C) The net assets of an open-enrollment public charter school deemed property of the state upon revocation or nonrenewal of the charter after all legal debts owed to third parties are satisfied.

SECTION 1754. Arkansas Code § 6–23–1003(b), concerning the resubmission of applications, is amended to read as follows:

<< AR ST § 6–23–1003 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may provide technical assistance to the adult education charter school applicant in the creation or modification of its application.

SECTION 1755. The introductory language of Arkansas Code § 6–23–1007, concerning reporting by the Department of Education, is amended to read as follows:

<< AR ST § 6–23–1007 >>

The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall report to the Senate Committee on Education and the House Committee on Education by December 1 each year concerning:

SECTION 1756. Arkansas Code § 6–24–106(b)(2)(A), concerning public school administrators, is amended to read as follows:

<< AR ST § 6–24–106 >>

(2)(A) However, a member of an administrator's family or former spouse may not be initially employed as a disbursing officer of the public educational entity where the administrator is employed unless the public educational entity receives written approval from the Commissioner of **Elementary and Secondary** Education.

SECTION 1757. Arkansas Code § 6–24–106(c)(3)(B)(iii), concerning public school administrators, is amended to read as follows:

<< AR ST § 6–24–106 >>

(iii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been received by the ~~Department of Education~~ **Division of Elementary and Secondary Education** and to provide a record for the school district board of directors sending the request for approval.

SECTION 1758. Arkansas Code § 6–24–106(c)(6), concerning public school administrators, is amended to read as follows:

<< AR ST § 6–24–106 >>

(6) The ~~Department of Education~~ **Division of Elementary and Secondary Education** and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to an exemption from the provisions of this chapter.

SECTION 1759. Arkansas Code § 6–24–107(b)(2)(A), concerning public school employees, is amended to read as follows:

<< AR ST § 6-24-107 >>

(A)(i) If it appears that the total transactions with an employee for a fiscal year total, or will total, ten thousand dollars (\$10,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution along with all relevant data to the Commissioner of **Elementary and Secondary Education** for independent review and approval.

(ii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been received by the ~~Department of Education~~ **Division of Elementary and Secondary Education** and to provide a record for the school district board of directors sending the request for approval.

SECTION 1760. Arkansas Code § 6-24-107(c), concerning public school employees, is amended to read as follows:

<< AR ST § 6-24-107 >>

(c) Documentation. The ~~department~~ **division** and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to transactions with employees.

SECTION 1761. Arkansas Code § 6-24-114(a)(1), concerning administrative remedies applicable to administrators and employees, is amended to read as follows:

<< AR ST § 6-24-114 >>

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** may review alleged violations of this chapter. If the ~~Department~~ **division** reviews the allegations and the Commissioner of **Elementary and Secondary Education** determines that there is adequate evidence of a violation, the commissioner may refer the allegations to the State Board of Education for review.

SECTION 1762. Arkansas Code § 6-41-101 is amended to read as follows:

<< AR ST § 6-41-101 >>

6-41-101. Services to children with disabilities in nonpublic schools.

(a) ~~Prior to~~ **Before** expending any funding for new programs for children with disabilities that include funding for evaluation, counseling, assessment, personnel, equipment, or other capital outlay in other than public schools, the ~~Department~~ **Division** of Career **and Technical** Education shall publish a public notice of the intent to provide additional special services to the disabled, specifying the services in the public notice, and inviting organizations that are recognized by the state to provide education, assessment, jobs skills training, or vocational education to children with disabilities to submit proposals to provide the additional special services.

(b) The ~~department~~ **division** may award one (1) or more contracts to any organization that can fulfill the goals and objectives of the program, or the ~~department~~ **division** may assume responsibility for implementing the program.

SECTION 1763. Arkansas Code § 6-41-104(d), concerning services for children determined in another state to be eligible for services due to a behavioral disability, is amended to read as follows:

<< AR ST § 6-41-104 >>

(d) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall have the authority to promulgate rules as necessary to carry out the provisions of this section.

SECTION 1764. Arkansas Code § 6-41-203(3)(B), concerning the definition of “free appropriate public education” under the Children with Disabilities Act, is amended to read as follows:

<< AR ST § 6-41-203 >>

(B) Meet the standards of the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on January 1, 2017;

SECTION 1765. Arkansas Code § 6-41-210 is amended to read as follows:

<< AR ST § 6-41-210 >>

6-41-210. Special Education Section for children with disabilities.

(a) There is established in the ~~Department of Education~~ **Division of Elementary and Secondary Education** a Special Education Section.

(b) The section shall be headed by an associate director, who shall be qualified by education, training, and experience to take responsibility for, and give direction to, the programs of the ~~department~~ **division** relating to children with disabilities.

(c) Implementation of this section shall be dependent upon funds being made available to the ~~department~~ **division** for this purpose.

SECTION 1766. Arkansas Code § 6-41-211(a)(1), concerning the creation of the Advisory Council for the Education of Children with Disabilities, is amended to read as follows:

<< AR ST § 6-41-211 >>

(a)(1) There shall be an Advisory Council for the Education of Children with Disabilities, which shall advise and consult with the Commissioner of **Elementary and Secondary** Education and the Associate Director of the Special Education Section of the ~~Department of Education~~ **Division of Elementary and Secondary Education** and which shall engage in such other activities as are set forth in this section.

SECTION 1767. Arkansas Code § 6-41-211(g), concerning the creation of the Advisory Council for the Education of Children with Disabilities, is amended to read as follows:

<< AR ST § 6-41-211 >>

(g) The council shall:

(1) Advise the ~~Department of Education~~ **Division of Elementary and Secondary Education** of unmet needs within the state in the education of children with disabilities;

- (2) Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities;
- (3) Advise the ~~department~~ **division** in developing evaluations and reporting on data to the United States Secretary of Education under 20 U.S.C. § 1418;
- (4) Advise the ~~department~~ **division** in developing corrective action plans to address findings identified in federal monitoring reports under Title 20, Chapter 33, Subchapter II of the United States Code; and
- (5) Advise the ~~department~~ **division** in developing and implementing policies relating to the coordination of services for children with disabilities.

SECTION 1768. Arkansas Code § 6-41-216(c)(3), concerning test, evaluations, change of child's status, and hearings, is amended to read as follows:

<< AR ST § 6-41-216 >>

- (3)(A) The Special Education Section in the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall establish standards and qualifications for individuals to serve as hearing officers.
- (B) Neither an employee of the ~~Department of Education~~ **Division of Elementary and Secondary Education** nor an employee of the local school district involved in a particular hearing may serve as a hearing officer.
- (C) Professional service contracts with individuals made for the purpose of compensating them for services rendered in connection with hearings shall not constitute employment.

SECTION 1769. Arkansas Code § 6-41-312 is amended to read as follows:

<< AR ST § 6-41-312 >>

6-41-312. Reports.

- (a) Public school districts and entities receiving state or federal funds to provide special education programming shall keep an accurate account, in the manner and on the forms prescribed by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, of all moneys expended for special education programs and shall report those expenditures to the ~~department~~ **division**.
- (b) A report of the average daily attendance of all students enrolled, including students receiving instruction in the homebound setting, will be made to the ~~department~~ **division**.

SECTION 1770. Arkansas Code § 6-41-402 is amended to read as follows:

<< AR ST § 6-41-402 >>

6-41-402. Definitions.

As used in this subchapter:

- (1) "Compliance citation" means a citation issued by the ~~Department of Education~~ **Division of Elementary and Secondary Education** that documents a school's failure to comply with state education laws;
- (2) "Department" means the Department of Education; and

(3) (2) “Individualized education program” means the evaluation of the educational needs of a child with disabilities conducted pursuant to § 6–41–217.

SECTION 1771. The introductory language of Arkansas Code § 6–41–403(a), concerning the assessment of student progress, is amended to read as follows:

<< AR ST § 6–41–403 >>

(a) Each school district shall ensure that at least one (1) time per year a licensed teacher of the visually impaired, or other qualified person as determined by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, conducts an assessment of the educational progress of each visually impaired student enrolled in that school district identified as having or suspected of having a disability pursuant to the Children with Disabilities Act of 1973, § 6–41–201 et seq. The assessment shall:

SECTION 1772. Arkansas Code § 6–41–403(a)(1), concerning the assessment of student progress, is amended to read as follows:

<< AR ST § 6–41–403 >>

(1) Address the student's need for braille instruction, using procedures developed by the ~~department~~ **division**, and specify the learning medium most appropriate for the student's educational progress;

SECTION 1773. Arkansas Code § 6–41–404 is amended to read as follows:

<< AR ST § 6–41–404 >>

6–41–404. Braille instruction.

Each student who needs braille reading and writing instruction shall receive instruction from either a licensed teacher of the visually impaired or a person who is qualified in braille instruction as determined by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1774. Arkansas Code § 6–41–405(a), concerning electronic textbooks, is amended to read as follows:

<< AR ST § 6–41–405 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall have the authority to require publishers of textbooks to furnish electronic media for the text portion of those textbooks required by visually impaired students.

SECTION 1775. Arkansas Code § 6–41–406 is amended to read as follows:

<< AR ST § 6–41–406 >>

6–41–406. Compliance required.

Failure of a school district to come into compliance with the provisions of this subchapter shall be grounds for a compliance citation from the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1776. Arkansas Code § 6-41-407 is amended to read as follows:

<< AR ST § 6-41-407 >>

6-41-407. Accommodation for students with sensory processing difficulty.

When administering a state-mandated assessment or a state-mandated test, the Department of Education **Division of Elementary and Secondary Education** and each school district shall allow a student that has been evaluated through appropriate testing, including a comprehensive eye examination by an optometrist or an ophthalmologist, and identified as having difficulty with sensory processing in reaction to oversensitivity to full spectrum light to use color overlays specific to the student's oversensitivity that alter the contrast between the words and the page so that the student can visually comprehend the words on a page of a state-mandated assessment or a state-mandated test, if made available by the test developer.

SECTION 1777. Arkansas Code § 6-41-602(5), concerning the definition of “dyslexia therapist” under the laws related to dyslexia and related disorders, is amended to read as follows:

<< AR ST § 6-41-602 >>

(5) “Dyslexia therapist” means a professional who has completed training and obtained certification in dyslexia therapy from a dyslexia therapy training program defined by the Department of Education **Division of Elementary and Secondary Education**; and

SECTION 1778. Arkansas Code § 6-41-603(a)(1), concerning required screening and intervention for kindergarten through second grade children, is amended to read as follows:

<< AR ST § 6-41-603 >>

(a)(1) A school district shall screen each student in kindergarten through grade two (K-2) and others required by the Department of Education **Division of Elementary and Secondary Education** rule using the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) or an equivalent screener.

SECTION 1779. The introductory language of Arkansas Code § 6-41-603(b), concerning required screening and intervention for kindergarten through second grade children, is amended to read as follows:

<< AR ST § 6-41-603 >>

(b) The Department of Education **Division of Elementary and Secondary Education** shall adopt rules to ensure that students will be screened using DIBELS or an equivalent screener:

SECTION 1780. Arkansas Code § 6-41-605(b), concerning instructional approaches regarding dyslexia, is amended to read as follows:

<< AR ST § 6-41-605 >>

(b) Until there are a sufficient number of graduates from a dyslexia therapy program established at the university level in Arkansas or from a dyslexia therapy program established at the university level in another state that is approved by the Department of Education **Division of Elementary and Secondary Education**, the department **division** shall allow

dyslexia therapy to be provided by individuals who have received training and certification from a program approved by the department **division**.

SECTION 1781. Arkansas Code § 6-41-607(a), concerning dyslexia specialists, is amended to read as follows:

<< AR ST § 6-41-607 >>

(a) ~~No later than the 2015 fiscal year, the Department of Education~~ **The Division of Elementary and Secondary Education** shall employ at least one (1) dyslexia specialist with a minimum of three (3) years of field experience in screening, identifying, and treating dyslexia and related disorders to provide technical assistance for dyslexia and related disorders to school districts across the state.

SECTION 1782. Arkansas Code § 6-41-607(c), concerning dyslexia specialists, is amended to read as follows:

<< AR ST § 6-41-607 >>

(c) The department **division** shall ensure that at least one (1) staff member at each education service cooperative is trained as a dyslexia specialist to provide necessary information and support to school districts.

SECTION 1783. The introductory language of Arkansas Code § 6-41-608(a), concerning dyslexia professional awareness, is amended to read as follows:

<< AR ST § 6-41-608 >>

(a) ~~No later than the 2014-2015 school year, the Department of Education~~ **The Division of Elementary and Secondary Education** shall ensure that each teacher receives professional awareness on:

SECTION 1784. Arkansas Code § 6-41-608(b)(3), concerning dyslexia professional awareness, is amended to read as follows:

<< AR ST § 6-41-608 >>

(3) At another venue approved by the department **division**.

SECTION 1785. Arkansas Code § 6-41-609 is amended to read as follows:

<< AR ST § 6-41-609 >>

6-41-609. Dyslexia and related disorder education in teacher preparation programs.

~~No later than the 2015-2016 school year, the Department of Education~~ **The Division of Elementary and Secondary Education** shall collaborate with the department **Division** of Higher Education to ensure that all teacher education programs offered at state-supported institutions of higher education provide dyslexia professional awareness of the:

- (1) Characteristics of dyslexia; and
- (2) Evidence-based interventions and accommodations for dyslexia.

SECTION 1786. Arkansas Code § 6-41-610 is amended to read as follows:

<< AR ST § 6-41-610 >>

6-41-610. Rules — Dyslexia resource guide.

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall adopt rules to implement this subchapter.

(b)(1) The ~~department~~ **Division of Elementary and Secondary Education** shall maintain a committee for the purpose of developing and updating the Arkansas Dyslexia Resource Guide.

(2)(A) The committee shall include one (1) representative who has experience working in the field of dyslexia intervention from the following organizations, appointed by the Commissioner of **Elementary and Secondary Education**:

(i) The Arkansas Association of Educational Administrators;

(ii) The Division of Learning Services of the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

(iii) The ~~Department~~ **Division** of Higher Education;

(iv) The Arkansas Education Association;

(v) The Arkansas School Boards Association;

(vi) The Arkansas School Psychology Association, with at least three (3) years of experience in testing for dyslexia; and

(vii) An education service cooperative administrator.

(B) Three (3) professionals who have worked in a public school who are knowledgeable in and have expertise in dyslexia screening and interventions.

SECTION 1787. The introductory language of Arkansas Code § 6-41-611(b), concerning the rules and enforcement under the laws governing dyslexia and related disorders, is amended to read as follows:

<< AR ST § 6-41-611 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education**:

SECTION 1788. Arkansas Code § 6-41-805(b)(1) and (2), concerning the responsibilities of a higher education institute that wishes to establish a Building Better Futures Program, are amended to read as follows:

<< AR ST § 6-41-805 >>

(b)(1) The ~~Department~~ **Division** of Higher Education shall provide information statewide, including to each high school in the state, on the options for postsecondary education for students with intellectual disabilities.

(2) Each public high school in Arkansas shall provide the information distributed by the ~~Department~~ **Division** of Higher Education to the parent or guardian of a student with an intellectual or developmental disability enrolled in the public high school.

SECTION 1789. Arkansas Code § 6-41-902(c), concerning student eligibility for a Succeed Scholarship, is amended to read as follows:

<< AR ST § 6-41-902 >>

(c) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall approve a maximum of twenty (20) scholarships under this subchapter per academic year for students in foster care.

SECTION 1790. Arkansas Code § 6-41-903(a)(1), concerning private school eligibility for the Succeed Scholarship Program, is amended to read as follows:

<< AR ST § 6-41-903 >>

(a)(1) A private school shall notify the ~~Department of Education~~ **Division of Elementary and Secondary Education** of its intent to participate in the Succeed Scholarship Program.

SECTION 1791. The introductory language of Arkansas Code § 6-41-903(b), concerning private school eligibility for the Succeed Scholarship Program, is amended to read as follows:

<< AR ST § 6-41-903 >>

(b) The ~~department~~ **division** shall approve a private school as eligible to participate in the program if the private school:

SECTION 1792. Arkansas Code § 6-41-903(b)(2), concerning private school eligibility for the Succeed Scholarship Program, is amended to read as follows:

<< AR ST § 6-41-903 >>

(2)(A) Demonstrates fiscal soundness by having been in operation for one (1) school year or providing the ~~department~~ **division** with a statement by a certified public accountant confirming that the private school is insured and the private school has sufficient capital or credit to operate in the upcoming school year.

(B) In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the ~~department~~ **division**;

SECTION 1793. Arkansas Code § 6-41-903(c), concerning private school eligibility for the Succeed Scholarship Program, is amended to read as follows:

<< AR ST § 6-41-903 >>

(c) The ~~department~~ **division** shall maintain a list of private schools eligible to participate in the program and make the list available on the ~~department's~~ **division's** website.

SECTION 1794. Arkansas Code § 6-41-904(a)(1), concerning the responsibilities of Succeed Scholarship Program recipients, is amended to read as follows:

<< AR ST § 6-41-904 >>

(1) Select the private school from the list of private schools eligible to participate in the program that is maintained by the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 1795. Arkansas Code § 6-41-905(c) and (d), concerning the funding and scholarship payments of the Succeed Scholarship Program, is amended to read as follows:

<< AR ST § 6-41-905 >>

(c) Scholarship payments shall be disbursed in equal amounts on a monthly basis by the ~~Department of Education~~ **Division of Elementary and Secondary Education** or another state agency, person, firm, or corporation designated by the ~~department~~ **division** to administer and disburse funds.

(d) Beginning on July 1, 2015, the ~~department~~ **division** shall prepare a budget, including cost estimates and projections so that a separate appropriation can be made for the program for the 2016-2017 school year.

SECTION 1796. Arkansas Code § 6-42-103, concerning the creation of the Office for the Education of Gifted and Talented Children, is amended to read as follows:

<< AR ST § 6-42-103 >>

6-42-103. Office for the Education of Gifted and Talented Children.

To implement the policy stated in § 6-42-101, there is established in the Division of Learning Services of the ~~Department of Education~~ **Division of Elementary and Secondary Education** an Office for the Education of Gifted and Talented Children to be headed by an administrator who shall be qualified by education, training, and experience to direct the state program for gifted and talented children.

SECTION 1797. Arkansas Code § 6-42-104(a)(1), concerning the creation of the Advisory Council for the Education of Gifted and Talented Children, is amended to read as follows:

<< AR ST § 6-42-104 >>

(a)(1) There is established an Advisory Council for the Education of Gifted and Talented Children, which shall advise and consult with the Commissioner of **Elementary and Secondary Education** and the Administrator of the Office for the Education of Gifted and Talented Children and which shall engage in other activities as set forth in this section.

SECTION 1798. Arkansas Code § 6-42-104(f), concerning the creation of the Advisory Council for the Education of Gifted and Talented Children, is amended to read as follows:

<< AR ST § 6-42-104 >>

(f) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall, within available personnel, facilities, and appropriations, furnish meeting facilities and staff services for the council.

SECTION 1799. Arkansas Code § 6-42-104(h)(5), concerning the creation of the Advisory Council for the Education of Gifted and Talented Children, is amended to read as follows:

<< AR ST § 6-42-104 >>

(5) Participate with the staff of the ~~Department~~ **division** in determining the need for educational programs to serve gifted and talented children to be operated by the ~~department~~ **division**, in selecting the sites for educational programs, in establishing student selection criteria for participation in the programs, in selecting students to participate in the programs, and in selecting faculty and staff for the programs; and

SECTION 1800. Arkansas Code § 6-42-104(h)(6)(B), concerning the creation of the Advisory Council for the Education of Gifted and Talented Children, is amended to read as follows:

<< AR ST § 6-42-104 >>

(B) The programs so recognized shall be eligible to receive an award of not more than three thousand dollars (\$3,000) from funds appropriated to the ~~department~~ **division** for the purpose of making awards to outstanding educational programs.

SECTION 1801. Arkansas Code § 6-42-106(a)(1) and (2), concerning the funding and eligibility of gifted and talented programs, is amended to read as follows:

<< AR ST § 6-42-106 >>

(a)(1) Appropriations made by the General Assembly to the Public School Fund for the purposes of this subchapter shall be disbursed by the ~~Department of Education~~ **Division of Elementary and Secondary Education** in accordance with regulations promulgated by the State Board of Education.

(2) Such funds may be used to provide financial assistance to school districts operating programs for gifted and talented children and to fund supplemental programs for gifted and talented children operated by the ~~department~~ **division** directly or through contract with other public or private agencies.

SECTION 1802. Arkansas Code § 6-42-108 is amended to read as follows:

<< AR ST § 6-42-108 >>

6-42-108. Summer residential and day programs.

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** is authorized to establish annual summer residential and day programs to provide enriched educational offerings for junior high and high school students who have demonstrated exceptional abilities in a specific subject area.

(b) Each program shall offer instruction in subject areas to be designated annually by the ~~department~~ **division** from the subject areas of science, mathematics, computer science, social studies, arts and music, literature and communication, and foreign languages.

(c) The summer educational programs established pursuant to the authority of this section shall be operated by the ~~department~~ **division** directly or by contract with other public or private agencies and shall be funded from the appropriation to the ~~department~~ **division** for the operation of programs for the education of gifted and talented students.

SECTION 1803. Arkansas Code § 6-42-109, concerning school district reports, is amended to read as follows:

<< AR ST § 6-42-109 >>

6-42-109. Reports by school districts.

Each school district shall report annually to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, at a prescribed due date, the extent to which it is providing educational opportunities specifically designed to meet the educational needs of gifted and talented children.

SECTION 1804. Arkansas Code § 6-42-303(b)(3)(A), concerning the creation of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts, is amended to read as follows:

<< AR ST § 6-42-303 >>

(3)(A) In addition to appointed members of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts, six (6) ex officio nonvoting members shall also serve on the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts as follows:

- (i) The Commissioner of **Elementary and Secondary** Education;
- (ii) The Director of the ~~Department~~ **Division** of Higher Education;
- (iii) The ~~Executive~~ Director of the Arkansas Economic Development Commission or his or her designee;
- (iv) The Director of the ~~Department~~ **Division** of Arkansas Heritage;
- (v) The president of the parent association of the school; and
- (vi) The president of the student government of the school.

SECTION 1805. Arkansas Code § 6-42-306 is amended to read as follows:

<< AR ST § 6-42-306 >>

6-42-306. ~~Department of Education~~ Division of Elementary and Secondary Education regulations.

All ~~Department of Education~~ **Division of Elementary and Secondary Education** regulations shall apply to the Arkansas School for Mathematics, Sciences, and the Arts unless the ~~department~~ **division** determines otherwise or unless the regulations conflict with governance of the school by the Board of Trustees of the University of Arkansas and the purposes and intent of this subchapter.

SECTION 1806. Arkansas Code § 6-43-102(b)(2), concerning the powers and duties of the board of the Arkansas School for the Blind and the Arkansas School for the Deaf, is amended to read as follows:

<< AR ST § 6-43-102 >>

(2) The board of trustees, **in consultation with the Secretary of the Department of Education**, shall fix the salaries of officers and employees not already fixed by law.

SECTION 1807. Arkansas Code § 6-43-103(b), concerning superintendents of the Arkansas School for the Blind and the Arkansas School for the Deaf, is amended to read as follows:

<< AR ST § 6-43-103 >>

(b) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf, **in consultation with the Secretary of the Department of Education**, shall select the superintendents of the institutions committed to its care.

SECTION 1808. Arkansas Code § 6-43-104 is amended to read as follows:

<< AR ST § 6-43-104 >>

6-43-104. Employees generally.

(a) The superintendents shall have power to select and engage all employees of the schools at salaries fixed by the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf **in consultation with the Secretary of the Department of Education**, reporting the same for approval to the board at the next regular meeting thereof.

(b) The superintendents shall have the sole power to remove employees of the respective schools and may remove any employee at any time in their discretion for cause, but, in case of removal, the superintendent shall report the removal and the ground therefor to the board of trustees **and the Secretary of the Department of Education**.

SECTION 1809. Arkansas Code § 6-43-305(b), concerning teachers for the Arkansas School for the Deaf, is amended to read as follows:

<< AR ST § 6-43-305 >>

(b) Teachers for the sensory impaired shall be eligible for an additional step increase after being certified in teaching the vision or hearing impaired by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1810. Arkansas Code § 6-43-308 is amended to read as follows:

<< AR ST § 6-43-308 >>

6-43-308. Custodian of funds — Payment of bills, warrants, etc.

(a) The Treasurer of State, **in consultation with the Secretary of the Department of Education**, shall have the custody of all moneys, notes, securities, and other obligations belonging to the Arkansas School for the Deaf and shall be responsible for them under his or her bond and oath as the Treasurer of State.

(b) The Treasurer of State, **in consultation with the secretary**, shall pay all the expenses of the school out of the funds appropriated for the use of the school, upon warrants drawn by the Auditor of State in favor of the Board of Trustees of the Arkansas School for the Deaf, who shall issue his or her warrants upon orders signed by the President of the Board of Trustees of the Arkansas School for the Deaf and at least two (2) members of the board of trustees, except as herein otherwise provided.

SECTION 1811. Arkansas Code § 6-45-103(1), concerning the definition of “appropriate early childhood program” under the Arkansas Better Chance Program Act, is amended to read as follows:

<< AR ST § 6-45-103 >>

(1) “Appropriate early childhood program” means a developmentally appropriate program for young children, birth through five (5) years of age, approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as complying with the regulatory guidelines of the early childhood state accreditation by the Department of Human Services and Arkansas Better Chance Core Quality Approval Standards of the ~~Department of Education~~ **Division of Elementary and Secondary Education** to be issued by the ~~Department of Education~~ **Division of Elementary and Secondary Education** pursuant to this chapter;

SECTION 1812. Arkansas Code § 6-45-103(3), concerning the definition of “Arkansas Early Childhood Commission” under the Arkansas Better Chance Program Act, is amended to read as follows:

<< AR ST § 6-45-103 >>

(3) “Arkansas Early Childhood Commission” or “commission” means a twenty-five-member advisory body appointed by the Governor to perform certain duties and responsibilities relating to the development, expansion, and coordination of early childhood programs, including, but not limited to, serving as the advisory body to the ~~Department of Education~~ **Division of Elementary and Secondary Education** on early childhood program issues;

SECTION 1813. Arkansas Code § 6-45-103(5), concerning the definition of “Department” under the Arkansas Better Chance Program Act, is repealed:

<< AR ST § 6-45-103 >>

(5) “Department” means the ~~Department of Education or its authorized agents.~~

SECTION 1814. Arkansas Code § 6-45-104(a)(2), concerning the construction of the laws governing the Arkansas Better Chance Program, is amended to read as follows:

<< AR ST § 6-45-104 >>

(2) A local school is required to work with the ~~Department of Education~~ **Division of Elementary and Secondary Education** and its local community to establish, promote, and assist in the development of a program under the Arkansas Better Chance for School Success Program to serve all children in the school as provided in § 6-45-108, if:

(A) The school has had seventy-five percent (75%) or more students scoring below proficiency on the Elementary benchmark exams or other exams designated by the ~~department~~ **division** in the preceding two (2) school years; or

(B) The school has been designated by the ~~department~~ **division** as being in school improvement status under § 6-15-425 [repealed] or is located in a school district in academic distress.

SECTION 1815. Arkansas Code § 6-45-105 is amended to read as follows:

<< AR ST § 6-45-105 >>

6-45-105. Establishment of Arkansas Better Chance Program.

(a)(1)(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall establish the Arkansas Better Chance Program to assist in the establishment and funding of the appropriate early childhood programs for children from birth through five (5) years of age.

(B) Within the Arkansas Better Chance Program there is established the Arkansas Better Chance for School Success Program for providing appropriate early care and education programs for children three (3) years of age and four (4) years of age as identified under § 6-45-108(a).

(2)(A) ~~Beginning with the 1991-1992 school year, the Department~~ **The Division of Elementary and Secondary Education** shall award grants or contracts to appropriate early childhood programs selected by the ~~department~~ **Division of Elementary and Secondary Education** in accordance with specified programmatic standards.

(B)(i) These standards will be developed by the ~~department~~ **Division of Elementary and Secondary Education**, with the advice and assistance of the Arkansas Early Childhood Commission.

(ii) Standards for funding the Home Instruction for Parents of Preschool Youngsters will be developed in conjunction with the Arkansas HIPPY Advisory Board.

(C) The Home Instruction for Parents of Preschool Youngsters Regional Technical Assistance and Training Center shall be defined and funded as an integral part of the Home Instruction for Parents of Preschool Youngsters to provide necessary training, technical assistance, and program support to program sites in Arkansas.

(b) The programmatic standards and other rules and regulations necessary for the implementation of the Arkansas Better Chance Program shall be adopted by the State Board of Education in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c)(1) The ~~Department~~ **Division of Elementary and Secondary Education** may expend a maximum of two percent (2%) of available funds to administer the Arkansas Better Chance Program and to monitor Arkansas Better Chance Program grantees to ensure compliance with programmatic standards.

(2) The ~~Department~~ **Division of Elementary and Secondary Education** may contract with the Division of Child Care and Early Childhood Education of the Department of Human Services to administer the Arkansas Better Chance Program.

SECTION 1816. Arkansas Code § 6-45-106(a)(1)(A)(i), concerning the application process and allocation of funding for the Arkansas Better Chance Program, is amended to read as follows:

<< AR ST § 6-45-106 >>

(a)(1)(A)(i) Any early childhood program accredited and quality-approved by the Department of Human Services according to standards approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education** may apply for funding, regardless of the sponsorship of the program.

SECTION 1817. Arkansas Code § 6-45-106(a)(2)(A)(i), concerning the application process and allocation of funding for the Arkansas Better Chance Program, is amended to read as follows:

<< AR ST § 6-45-106 >>

(i) The school is in a district that has been designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as being in academic distress; and

SECTION 1818. Arkansas Code § 6-45-106(b), concerning the application process and allocation of funding for the Arkansas Better Chance Program, is amended to read as follows:

<< AR ST § 6-45-106 >>

(b) In order to be considered, an application must contain all information required by the ~~Department of Education's~~ **Division of Elementary and Secondary Education's** regulatory guidelines.

SECTION 1819. Arkansas Code § 6-45-106(c)(1), concerning the application process and allocation of funding for the Arkansas Better Chance Program, is amended to read as follows:

<< AR ST § 6-45-106 >>

(c)(1) In allocating funding for the Arkansas Better Chance for School Success Program, priority consideration shall be given to:

(A) Schools that have seventy-five percent (75%) or more students scoring below proficiency on the Elementary benchmark exams or other exams designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education** in the preceding two (2) school years; and

(B) Schools that have been designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as being in school improvement status under § 6-15-425 [repealed] or are located in a school district in academic distress.

SECTION 1820. Arkansas Code § 6-45-107 is amended to read as follows:

<< AR ST § 6-45-107 >>

6-45-107. Publication of funding availability and program criteria.

The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall annually provide notification to school districts and to other appropriate providers of the availability of funds under the Arkansas Better Chance Program and shall include in such notification the programmatic standards and criteria for determination of eligibility for funding under the program.

SECTION 1821. Arkansas Code § 6-45-108 is amended to read as follows:

<< AR ST § 6-45-108 >>

6-45-108. Criteria for determining need.

(a)(1) All children three (3) years of age and four (4) years of age who are members of a family with a gross family income not exceeding two hundred percent (200%) of the federal poverty guidelines are eligible to attend an Arkansas Better Chance for School Success Program if there is a program available in the school district where the child resides and if there is available space for the child to attend the program.

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Division of Child Care and Early Childhood Education may develop a fee schedule and establish eligibility based on family income for children

who are not eligible under subdivision (a)(1) of this section, but priority enrollment shall be allowed to children eligible under subdivision (a)(1) of this section.

(b) The ~~department~~ **Division of Elementary and Secondary Education and the division Division of Child Care and Early Childhood Education** shall review various criteria for identifying and targeting the areas of the state with the greatest need for early childhood programs.

(c) The State Board of Education, with the advice and assistance of the ~~division~~ **Division of Child Care and Early Childhood Education**, shall adopt the appropriate criteria for identifying Arkansas children with the greatest need to participate in Arkansas Better Chance for School Success Program-funded early childhood programs.

SECTION 1822. Arkansas Code § 6-45-109(b), concerning the certification by the Division of Child Care and Early Childhood Education regarding the Arkansas Better Chance Program, is amended to read as follows:

<< AR ST § 6-45-109 >>

(b) Upon certification of the child care facilities, the ~~division~~ **Division of Child Care and Early Childhood Education** shall provide a listing of all certified facilities and their certification numbers to the ~~Director~~ **Secretary** of the Department of Finance and Administration for the purpose of the income tax credit or refund provided for in §§ 26-51-502 and 26-51-507.

SECTION 1823. Arkansas Code § 6-45-110(a)(2)(B), concerning the assessment of children enrolled in the Arkansas Better Chance Program, is amended to read as follows:

<< AR ST § 6-45-110 >>

(B) The ~~division~~ **Division of Child Care and Early Childhood Education** and the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall work cooperatively to ensure that the assessments are conducted as required by this section.

SECTION 1824. Arkansas Code § 6-46-101(c), concerning the creation of the Arkansas High Technology Training Center, is amended to read as follows:

<< AR ST § 6-46-101 >>

(c) The center shall also offer courses to adults to enhance their competencies and capabilities in high-technology careers in coordination with the Adult Education Section of the ~~Department of Career Education~~ **Division of Workforce Services**.

SECTION 1825. Arkansas Code § 6-46-202 is amended to read as follows:

<< AR ST § 6-46-202 >>

6-46-202. Funding.

The Arkansas High Technology Training Center shall be funded by moneys appropriated by the General Assembly for the operation of the center and by such grants, contributions, or donations that may be received by the ~~Department~~ **Division** of Career **and Technical** Education for the support of the center.

SECTION 1826. Arkansas Code § 6-46-302 is amended to read as follows:

<< AR ST § 6-46-302 >>

6-46-302. Rules and regulations — Administration generally.

(a) The ~~Department~~ **Division** of Career **and Technical** Education shall supervise the Arkansas High Technology Training Center and is hereby authorized and empowered to promulgate rules and regulations that may be necessary to carry out the provisions of this chapter.

(b) The ~~department~~ **division** shall develop a plan for the structure, operation, and funding of the center.

SECTION 1827. Arkansas Code § 6-46-303 is amended to read as follows:

<< AR ST § 6-46-303 >>

6-46-303. Budget.

(a) The ~~Department~~ **Division** of Career **and Technical** Education shall prepare the fiscal year budget request for the Arkansas High Technology Training Center's operation, which shall be submitted to the ~~Career Education and Workforce Development Board~~ **State Board of Education** for inclusion in the fiscal year budget request of the ~~department~~ **Division of Career and Technical Education** for funding programs from the ~~Department~~ **Division** of Career **and Technical** Education Fund Account.

(b) The ~~department~~ **Division of Career and Technical Education** is authorized and empowered to receive contributions, donations, gifts, bequests of money, other forms of financial assistance, and property, equipment, materials, or personnel, from persons, foundations, trust funds, corporations, organizations, and other sources, private or public, to be expended and utilized for the operation of the center.

SECTION 1828. Arkansas Code § 6-46-304 is amended to read as follows:

<< AR ST § 6-46-304 >>

6-46-304. Training contracts.

The ~~Department~~ **Division** of Career **and Technical** Education may contract with private or public business enterprises or other government agencies to perform customized high technology training for the benefit of those contracting parties.

SECTION 1829. Arkansas Code § 6-46-401 is amended to read as follows:

<< AR ST § 6-46-401 >>

6-46-401. Chief administrative officer.

(a) The Director of the ~~Department~~ **Division** of Career **and Technical** Education shall employ an administrator for the Arkansas High Technology Training Center, who shall serve at the pleasure of the director.

(b) The administrator shall be the chief administrative officer of the center and shall administer the center in accordance with the policies established by the ~~Department~~ **Division** of Career **and Technical** Education.

SECTION 1830. Arkansas Code § 6-46-402 is amended to read as follows:

<< AR ST § 6-46-402 >>

6-46-402. Other employees.

(a) The administrator and other personnel employed for the operation of the Arkansas High Technology Training Center shall be employees of the State of Arkansas, **and the Department of Education.**

(b) Faculty members and other personnel required for operation of the center shall be recommended for employment by the administrator and shall be employed by annual contract by the ~~Department~~ **Division** of Career **and Technical** Education.

(c) Teachers and administrators so employed shall be eligible for membership in the Arkansas Teacher Retirement System and earn credited service for such employment.

(d) Noneducational personnel employed by the ~~Department~~ **division** shall be eligible for membership in the Arkansas Public Employees' Retirement System and earn credited service for such employment.

SECTION 1831. Arkansas Code § 6-46-501 is amended to read as follows:

<< AR ST § 6-46-501 >>

6-46-501. Technical assistance.

The ~~Department~~ **Division** of Career **and Technical** Education, the ~~Department~~ **Division** of Higher Education, the Arkansas Economic Development Council, and the Arkansas Economic Development Commission shall provide technical assistance to the Arkansas High Technology Training Center.

SECTION 1832. Arkansas Code § 6-46-502 is amended to read as follows:

<< AR ST § 6-46-502 >>

6-46-502. Operation contracts.

The ~~Department~~ **Division** of Career **and Technical** Education shall also be authorized to contract with other agencies and private research centers as it may deem necessary to carry out its responsibilities for the operation of the Arkansas High Technology Training Center.

SECTION 1839.¹⁰ Arkansas Code § 6-47-202 is amended to read as follows:

<< AR ST § 6-47-202 >>

6-47-202. Administration in two-year colleges.

(a) The ~~Department~~ **Division** of Higher Education shall oversee and coordinate the implementation of distance learning in two-year colleges, four-year institutions of higher education, and universities in the state.

(b) The ~~Department~~ **Division** of Career **and Technical** Education shall cooperate with the ~~Department~~ **Division** of Higher Education in implementing the provisions of this section.

SECTION 1833. Arkansas Code § 6-47-203 is amended to read as follows:

<< AR ST § 6-47-203 >>

6-47-203. Department of Education Division of Elementary and Secondary Education and Department Division of Higher Education — Cooperation, report, and implementation.

(a) The Department of Education **Division of Elementary and Secondary Education** and the Department **Division** of Higher Education shall work together to implement distance learning throughout the state.

(b) The Department of Education **Division of Elementary and Secondary Education** and the Department **Division** of Higher Education shall present a report to the House Committee on Education and the Senate Committee on Education by December 31, 1999, reporting the status and progress of distance learning in Arkansas.

(c) The Department of Education **Division of Elementary and Secondary Education** and the Department **Division** of Higher Education shall not be required to implement the provisions of this subchapter if funds are not made available.

SECTION 1834. Arkansas Code § 6-47-302 is amended to read as follows:

<< AR ST § 6-47-302 >>

6-47-302. Implementation in elementary and secondary schools — Courses offered.

(a) The Department of Education **Division of Elementary and Secondary Education** shall plan for the statewide implementation of distance learning in elementary and secondary public schools in the state.

(b)(1) The elementary or secondary school may utilize courses from outside the state if the out-of-state course provider is approved by the Department of Education **Division of Elementary and Secondary Education** or the Department **Division** of Career **and Technical** Education before the school offers the courses through distance learning.

(2) A course offered through an approved out-of-state course provider under this subsection shall follow Department of Education **Division of Elementary and Secondary Education** course frameworks.

(c) The courses offered through distance learning may include college preparatory courses, advanced mathematics and science courses, and technological courses.

(d) The Department of Education **Division of Elementary and Secondary Education** shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Arkansas Educational Television Commission, the education service cooperatives, the Arkansas State Library, and other state agencies involved in distance learning.

SECTION 1835. Arkansas Code § 6-47-303 is amended to read as follows:

<< AR ST § 6-47-303 >>

6-47-303. Coordination at institutions of higher education.

The Department **Division** of Higher Education shall coordinate the implementation of distance learning at the state's public institutions of higher education.

SECTION 1836. Arkansas Code § 6-47-304 is amended to read as follows:

<< AR ST § 6-47-304 >>

6-47-304. Department Division of Career and Technical Education to cooperate with Department of Education Division of Elementary and Secondary Education and Department Division of Higher Education.

The ~~Department of Education~~ **Division of Career and Technical Education** shall cooperate with the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the ~~Department of Education~~ **Division of Higher Education** to implement distance learning throughout the state.

SECTION 1837. Arkansas Code § 6-47-403(2) and (3), concerning the definitions of “commissioner” and “department” under the laws governing distance learning, are repealed

<< AR ST § 6-47-403 >>

(2) “Commissioner” means the ~~Commissioner of Education~~;

(3) “Department” means the ~~Department of Education~~;

SECTION 1838. Arkansas Code § 6-47-404(a), concerning the creation and implementation of the Arkansas Distance Learning Development Program, is amended to read as follows:

<< AR ST § 6-47-404 >>

(a) There is established the Arkansas Distance Learning Development Program, which shall be conducted by the ~~Department of Education~~ **Division of Elementary and Secondary Education** and administered through the Commissioner of **Elementary and Secondary Education**.

SECTION 1839. ¹¹ Arkansas Code § 6-47-404(c)(3)(A), concerning the creation and implementation of the Arkansas Distance Learning Development Program, is amended to read as follows:

<< AR ST § 6-47-404 >>

(3)(A) All donations, grants, and appropriations received shall be accounted for by the ~~department~~ **division**.

SECTION 1840. Arkansas Code § 6-47-406(a)(3), concerning the public school district and the charter school distance learning program, is amended to read as follows:

<< AR ST § 6-47-406 >>

(3) The public school or open-enrollment public charter school teaches or offers a distance learning course that has been approved by or otherwise complies with ~~Department of Education~~ **Division of Elementary and Secondary Education** rules and standards governing distance learning courses.

SECTION 1841. Arkansas Code § 6-47-406(b), concerning the public school district and the charter school distance learning program, is amended to read as follows:

<< AR ST § 6-47-406 >>

(b) The State Board of Education shall adopt rules to allow the Commissioner of **Elementary and Secondary Education** to waive the requirements under subdivisions (a)(1) and (2) of this section on an individual basis for a student who is

unable to attend due to conditions that prevent the child from physically attending a public school or an open-enrollment public charter school.

SECTION 1842. Arkansas Code § 6-47-406(f), concerning the public school district and the charter school distance learning program, is amended to read as follows:

<< AR ST § 6-47-406 >>

(f)(1) Before a public school district or open-enrollment public charter school offers or teaches to public school students, home-schooled students, or private school students distance learning courses that are not part of the curriculum required by the Standards for Accreditation of Arkansas Public Schools and School Districts established by the state board, the open-enrollment public school district or public charter school first shall obtain approval of the distance learning courses by the ~~department~~ **division**.

(2) A course offered under this subsection shall follow ~~Department~~ **division** course frameworks.

SECTION 1843. Arkansas Code § 6-47-502 is amended to read as follows:

<< AR ST § 6-47-502 >>

6-47-502. Distance learning grants.

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall develop grant standards and provide grants to education service cooperatives for acquiring equipment and receiving telecommunications services necessary for each school district to have distance learning availability.

(2) The grants shall be used to assist school districts that do not have distance learning capabilities and to assist school districts in upgrading existing distance learning capabilities.

(3) The grants shall also be used by the education service cooperatives to provide technical assistance to the school districts in implementing and maintaining distance learning as an educational tool.

(b)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall:

(A) Establish, by rule, standards for eligible equipment and telecommunications services; and

(B) Oversee the efficient operation and use of the system pursuant to law.

(2) Each school district shall have adequate connectivity to provide quality of service for distance learning.

(3) The distance learning technical protocol or protocols shall be in alignment with technical standards set by the Director of the ~~Department~~ **Division** of Information Systems.

(c) Education service cooperatives and school districts shall coordinate with the ~~department~~ **Division of Elementary and Secondary Education** to seek to obtain the benefits of the Federal Communications Commission's E-rate program.

SECTION 1844. Arkansas Code § 6-48-101 is amended to read as follows:

<< AR ST § 6-48-101 >>

6-48-101. Definitions.

As used in this chapter:

(1)(A)(i) “Alternative learning environment” means an alternate class or program within a public school or school district that affords all students an environment that seeks to eliminate barriers to learning for any student whose academic and social progress is negatively affected by the student's personal characteristics or situation.

(ii) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall by rule more fully define the student's personal characteristics and situations applicable under this chapter.

(B) An alternative learning environment is not a punitive environment but one that is conducive to learning.

(C) An alternative learning environment is not a separate school for the purposes of this title even if the ~~department~~ **Division of Elementary and Secondary Education** assigns the alternative learning environment a separate local education agency number; and

(2) “Intervention services” means activities within or outside a school that will eliminate traditional barriers to learning.

SECTION 1845. Arkansas Code § 6-48-102(a)(1), concerning the requirement for alternative learning environments and reporting, is amended to read as follows:

<< AR ST § 6-48-102 >>

(a)(1) A school district shall provide one (1) or more alternative learning environments for all students who meet the minimum criteria established by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 1846. Arkansas Code § 6-48-102(b), concerning the requirement for alternative learning environments and reporting, is amended to read as follows:

<< AR ST § 6-48-102 >>

(b) Annually, a school district shall submit to the ~~department~~ **division**:

(1) Information on race and gender of the students educated in the alternative learning environment;

(2) Any other information regarding students educated in alternative learning environments that the ~~department~~ **division** requires by rule; and

(3) An assurance statement that the school district is in compliance with this chapter.

SECTION 1847. Arkansas Code § 6-48-104 is amended to read as follows:

<< AR ST § 6-48-104 >>

6-48-104. ~~Department of Education~~ **Division of Elementary and Secondary Education responsibilities.**

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall promulgate rules to implement this chapter, including without limitation rules that establish:

(1)(A) The criteria for distributing state funding for alternative learning environment programs.

(B) The criteria shall identify the characteristics of students who may be counted for the purpose of funding an alternative learning environment program including without limitation that a student is educated in the alternative learning environment for a minimum of twenty (20) consecutive days.

(C) If a student is educated in the alternative learning environment for fewer than twenty (20) days, the department **division** may provide funding to a school district based on the actual number of days the student is educated in the alternative learning environment if the student:

- (i) Leaves the school district to transfer to another alternative learning environment; or
- (ii) Is placed in a residential treatment program;

(2)(A) The criteria for teacher training for teachers in alternative learning environments, including without limitation:

- (i) In-service training in classroom management; and
- (ii) Training in additional areas related to the specific needs and characteristics of students who are educated in alternative learning environments.

(B) The department **division** shall award professional development credit for the training under this subdivision (a)(2); and

(3) Measures of effectiveness for alternative learning environments that measure:

(A) For the students educated in the alternative learning environment the effect on the students':

- (i) School performance;
- (ii) Need for intervention; and
- (iii) School attendance and dropout rate; and

(B) Any other characteristic of alternative learning environments deemed necessary by the department **division**.

(b)(1) As part of the department's **division's** accreditation review of a school district under § 6-15-202, the department **division** shall evaluate each alternative learning environment to ensure that the alternative learning environment is:

- (A) Established and operated in compliance with this chapter; and
- (B) Effective under the measurements established by the department **division** under this section.

(2) The department **division** shall identify a school district's noncompliance with this chapter on the school district's annual report card.

(c) The department **division** shall identify information concerning best practices for educating students in alternative learning environments and disseminate that information to teachers and administrators working in alternative learning environments.

(d) Annually by September 15, the department **division** shall provide to the House Committee on Education and the Senate Committee on Education a report on:

- (1) The information reported to it under § 6-48-102; and

(2) The effectiveness of alternative learning environments evaluated under this chapter.

SECTION 1848. Arkansas Code § 6-50-101 is amended to read as follows:

<< AR ST § 6-50-101 >>

6-50-101. Contracts with private organizations.

The Director of the ~~Department~~ **Division** of Career **and Technical** Education is hereby authorized to enter into contracts with private organizations licensed by the State Board of ~~Career~~ Education in order to provide vocational-technical training to citizens of the State of Arkansas.

SECTION 1849. Arkansas Code § 6-50-103(a)(1), concerning participation in vocational student organizations, is amended to read as follows:

<< AR ST § 6-50-103 >>

(a)(1) The ~~Department~~ **Division** of Career **and Technical** Education may reimburse secondary vocational centers and other public schools in Arkansas for dues, membership fees, supplies, travel, lodging, and other expenses related to a student's participation in vocational student organizations.

SECTION 1850. Arkansas Code § 6-50-201(a), concerning the creation of the Arkansas Technical Careers Student Loan Forgiveness Program, is amended to read as follows:

<< AR ST § 6-50-201 >>

(a) There is hereby established a program to be known as the Arkansas Technical Careers Student Loan Forgiveness Program, to be administered by the State Board of ~~Career~~ Education through the ~~Department~~ **Division** of Career **and Technical** Education.

SECTION 1851. The introductory language of Arkansas Code § 6-50-203, concerning the administration of the Arkansas Technical Careers Student Loan Forgiveness Program, is amended to read as follows:

<< AR ST § 6-50-203 >>

The State Board of ~~Career~~ Education through the ~~Department~~ **Division** of Career **and Technical** Education shall administer the Arkansas Technical Careers Student Loan Forgiveness Program and shall have the following authority with respect to the program:

SECTION 1852. Arkansas Code § 6-50-204 is amended to read as follows:

<< AR ST § 6-50-204 >>

6-50-204. Institutional eligibility.

The institution to be attended under the loan forgiveness program must be approved by the ~~Career Education and Workforce Development Board~~ **State Board of Education**, the Arkansas Higher Education Coordinating Board, or the ~~Department~~ **Division** of Higher Education to offer training in the technical field chosen by the applicant.

SECTION 1853. Arkansas Code § 6–50–205(a), concerning the approval and priorities of educational programs for the Arkansas Technical Careers Student Loan Forgiveness Program, is amended to read as follows:

<< AR ST § 6–50–205 >>

(a) The State Board of ~~Career~~ Education shall consider comments and suggestions from the ~~Department~~ **Division** of Higher Education, the Arkansas Higher Education Coordinating Board, the Arkansas Economic Development Council, the ~~Department~~ **Division** of Workforce Services, the Arkansas State Chamber of Commerce, and other appropriate entities annually to develop and publish a list of technical education programs that are approved for this program.

SECTION 1854. Arkansas Code § 6–50–207(c), concerning the amount of loan forgiveness, is amended to read as follows:

<< AR ST § 6–50–207 >>

(c) With input from the ~~Department~~ **Division** of Higher Education and other appropriate entities, the State Board of ~~Career~~ Education shall establish through rules and regulations loan forgiveness amounts for approved technical education programs for students enrolled on a less than full-time basis.

SECTION 1855. Arkansas Code § 6–50–503(a), concerning the establishment of a youth apprenticeship/work-based learning program, is amended to read as follows:

<< AR ST § 6–50–503 >>

(a) The ~~Department~~ **Division** of Career **and Technical** Education is hereby authorized and directed to develop and implement a youth apprenticeship/work-based learning program to provide additional educational and training opportunities for noncollege-bound Arkansas high school students.

SECTION 1856. Arkansas Code § 6–50–504(a), concerning demonstration youth apprenticeship programs, is amended to read as follows:

<< AR ST § 6–50–504 >>

(a) The ~~Department~~ **Division** of Career **and Technical** Education shall implement during the 1991–1993 biennium at least five (5) demonstration youth apprenticeship programs.

SECTION 1857. Arkansas Code § 6–50–703(a), concerning the creation and purpose of the Arkansas Existing Workforce Training Program, is amended to read as follows:

<< AR ST § 6–50–703 >>

(a) There is hereby created the Arkansas Existing Workforce Training Program, to be administered by a governing council composed of equal representation from the ~~Department~~ **Division** of Higher Education, the ~~Department~~ **Division** of Career **and Technical** Education, and the Arkansas Economic Development Commission.

SECTION 1858. Arkansas Code § 6–51–205(b), concerning the Career Education and Workforce Development Board's responsibility for school operation, personnel, and equipment, is amended to read as follows:

<< AR ST § 6-51-205 >>

(b) The state board is authorized to employ personnel to set salaries which shall be comparable to those received by other similarly positioned personnel in the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and to negotiate leases or purchases with any and all agencies of the ~~government of the~~ United States **Government** for the lease or purchase of suitable facilities, equipment, machinery, and supplies to be used for the purposes authorized by this section and §§ 6-51-201 — 6-51-203, 6-51-207, 6-51-208(a)-(c), 6-51-209, and 6-51-210.

SECTION 1859. Arkansas Code § 6-51-208(d), concerning student fees, is amended to read as follows:

<< AR ST § 6-51-208 >>

(d) No secondary student or school shall be made to pay a tuition charge as a condition of his or her enrollment in any vocational program funded by the ~~Department of Education~~ **Division of Elementary and Secondary Education** while enrolled in a regular high school program.

SECTION 1860. Arkansas Code § 6-51-213(c)(1), concerning the administration of certain federal and state vocational education laws, is amended to read as follows:

<< AR ST § 6-51-213 >>

(c)(1) The Director of the ~~Department~~ **Division** of Career **and Technical** Education, as executive officer of the board for the purpose of administering the federal act and this act, shall, by and with the advice and consent of the board, designate assistants as may be necessary to carry out properly the provisions hereof.

SECTION 1861. Arkansas Code § 6-51-401(b), concerning the course of instruction for vocational-technical training, is amended to read as follows:

<< AR ST § 6-51-401 >>

(b) A prescribed course of study will be set up by the ~~Department~~ **Division** of Career **and Technical** Education in conjunction with the Plumbing and Natural Gas Section of the Department of Health and the local training committee.

SECTION 1862. Arkansas Code § 6-51-501(c)(1), concerning the creation of state-supported technical institutes offering courses in building trades, is amended to read as follows:

<< AR ST § 6-51-501 >>

(c)(1) As used in this subchapter, “secondary area technical center” means a secondary area vocational center established under § 6-13-801 et seq. or as defined by the ~~Department~~ **Division** of Career **and Technical** Education.

SECTION 1863. Arkansas Code § 6-51-502(b), concerning the approval, notification, requirements, and advance of funds for state-supported technical institutes or secondary area technical centers, is amended to read as follows:

<< AR ST § 6-51-502 >>

(b) Upon receipt of written approval, the technical institute or secondary area technical center shall notify the Department **Division** of Career **and Technical** Education of its intent to undertake the construction of a single family dwelling unit or other building project under the program established in this subchapter.

SECTION 1864. Arkansas Code § 6-51-503 is amended to read as follows:

<< AR ST § 6-51-503 >>

6-51-503. Procedure for purchase of lot.

When a technical institute is advanced funds from the Building Trades Revolving Fund by the Department **Division** of Career **and Technical** Education as provided in this subchapter, the technical institute shall, if it proposes to purchase a lot on which to build the dwelling unit or other building project, cause notice of the proposed purchase to be published in a newspaper of general circulation in the area where it proposes to purchase the lot in order to give persons in the area an opportunity to offer lots for sale to the school for the construction of the dwelling unit or other building project.

SECTION 1865. Arkansas Code § 6-51-504(a), concerning dwelling unit construction, restrictions, and exemptions, is amended to read as follows:

<< AR ST § 6-51-504 >>

(a) The Department **Division** of Career **and Technical** Education shall not advance funds to a technical institute from the Building Trades Revolving Fund created in this subchapter for the construction of more than one (1) dwelling unit or other building project at any one (1) time or more than one (1) dwelling unit or other building project in any twelve-month period.

SECTION 1866. Arkansas Code § 6-51-508(a) and (b), concerning the remittance of proceeds, are amended to read as follows:

<< AR ST § 6-51-508 >>

(a) All funds derived from reimbursement by a state agency or from the sale of a dwelling unit or other building project constructed under the provisions of this subchapter by a technical institute after deducting the cost of the sale shall be remitted to the Department **Division** of Career **and Technical** Education for deposit in the Building Trades Revolving Fund created in this subchapter.

(b) Upon the sale of a dwelling unit or other building project constructed under the provisions of this subchapter by a secondary area technical center:

(1)(A) The secondary area technical center shall remit to the department **division** the full amount of funds advanced for the project.

(B) The department **division** shall deposit the funds into the Building Trades Revolving Fund created in this subchapter; and

(2) The remaining proceeds, if any, shall be retained or any loss absorbed by the secondary area technical center.

SECTION 1867. Arkansas Code § 6-51-509, concerning the uses for the Building Trades Revolving Fund, is amended to read as follows:

<< AR ST § 6-51-509 >>

6-51-509. Uses for Building Trades Revolving Fund.

All funds appropriated for the program established in this subchapter together with funds derived from the sale of property and remitted to the Department **Division** of Career **and Technical** Education and deposited in the Building Trades Revolving Fund shall be used exclusively for the purpose of making advances to area vocational schools for the purchase of lots, building materials, supplies, and fixtures necessary to construct dwellings or other building projects on the lots and to otherwise carry out the purposes of this subchapter.

SECTION 1868. Arkansas Code § 6-51-510 is amended to read as follows:

<< AR ST § 6-51-510 >>

6-51-510. Disbursing officer.

The disbursing officer for the Department **Division** of Career **and Technical** Education shall be disbursing officer for funds in the Building Trades Revolving Fund.

SECTION 1869. Arkansas Code § 6-51-604 is amended to read as follows:

<< AR ST § 6-51-604 >>

6-51-604. Notice of possible violations — Responses — Injunctions.

(a) In consultation with the State Board of Private Career Education or its director acting for the board, if the Department **Division** of Higher Education has probable cause to believe that a person, agent, group, or entity has committed any acts that would be in violation of this subchapter such as fraud, misrepresentation, or unethical practices, the department **division** shall first give notice in writing by certified mail or in person to the agency or entity affected.

(b) The person, agent, or entity will have ten (10) days in which to respond to the notice of violation, unless the department **division** deems an emergency exists, in which case the entity will have up to twenty-four (24) hours in which to respond.

(c)(1) If action on the part of the person, agent, or entity in response to a notice is to seek to eliminate the violation, a further extension of time may be granted by the department **division**.

(2) Otherwise, the department **division** may order a cease and desist of such acts after a formal hearing, or the department **division** shall have the duty to request the Attorney General or district prosecuting attorney in the county where the offense was committed to seek in a court of competent jurisdiction an injunction restraining the commission of such acts.

SECTION 1870. Arkansas Code § 6-51-605 is amended to read as follows:

<< AR ST § 6-51-605 >>

6-51-605. State Board of Private Career Education.

(a)(1)(A) The Governor shall appoint a State Board of Private Career Education of seven (7) members who shall serve for terms of seven (7) years.

(B) The Governor shall make appointments or reappointments to the board to provide membership of three (3) persons associated with schools and four (4) persons from the general public.

- (2) The Director of the ~~Department~~ **Division** of Higher Education and the Director of the ~~Department~~ **Division** of Career **and Technical** Education or their designees shall serve as nonvoting, ex officio members of the board.
- (b) The board may elect the necessary officers, acting by and through the Director of the ~~Department~~ **Division** of Higher Education. In consultation with the board, the ~~Department~~ **Division** of Higher Education shall have the sole authority to:
- (1) Approve all schools offering programs of study leading to or enhancing an occupational objective;
 - (2) Administer and enforce this subchapter; and
 - (3) Issue licenses to schools that have met the standards set forth for the purposes of this subchapter by the ~~Department~~ **Division** of Higher Education, including without limitation programs of study, adequate facilities, financial stability, qualified personnel, and legitimate operating practices.
- (c) Upon approval by the ~~Department~~ **Division** of Higher Education, any such school may issue certificates or diplomas.
- (d) The ~~Department~~ **Division** of Higher Education shall:
- (1) Formulate the criteria and the standards evolved for the approval of such licensed schools;
 - (2) Provide for adequate investigation of all schools applying for a license;
 - (3) Issue licenses to those applicants meeting the standards fixed by the ~~Department~~ **Division** of Higher Education; and
 - (4) Maintain a list of schools approved under the provisions of this subchapter.
- (e) The ~~Department~~ **Division** of Higher Education shall formulate the standards evolved under this subchapter for the approval of admissions representatives of such licensed schools and issue licenses to those applicants meeting the standards fixed by the ~~Department~~ **Division** of Higher Education.
- (f) In consultation with the board, the ~~Department~~ **Division** of Higher Education shall promulgate standards and rules to be prescribed for the administration of this subchapter and the management and operation of the schools and admissions representatives, subject to the provisions of this subchapter.
- (g) The ~~Department~~ **Division** of Higher Education shall participate in the hearings provided to schools and admissions representatives in cases of revocation or denial of licensure.
- (h) Official meetings of the board may be called by the chair as necessary, but meetings shall be held at least four (4) times a year.
- (i) A majority of favorable votes by the board members at an official meeting is required for adoption of a recommendation.
- (j) Board members may be reimbursed for expenses in accordance with § 25–16–901 and stipends according to § 25–16–903.
- (k) The board may adopt and use a seal, which may be used for the authentication of the recommendations of the board.
- (l) The board shall employ a director who reports to the board.

(m)(1) The ~~Department~~ **Division** of Higher Education shall annually require background investigations for all partners or shareholders with ten percent (10%) or more ownership interest in a school when the school seeks an original license.

(2) The ~~Department~~ **Division** of Higher Education may establish a schedule for periodic background checks for partners or shareholders with ten percent (10%) or more ownership interest in a school when seeking renewal of a school license.

(n)(1) The partners or shareholders 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.

(2) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(3) The applicant shall sign a release of information to the board and shall be responsible to the ~~Department~~ **Division** of Arkansas State Police for the payment of any fee associated with the criminal background check.

(4) Upon completion of the criminal background check, the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police shall forward to the ~~Department~~ **Division** of Higher Education all information obtained concerning the person in the commission of any offense listed in § 6-51-606(h)(3).

(5)(A) The ~~Department~~ **Division** of Higher Education may issue a nonrenewable temporary license pending the results of the criminal background check.

(B) The license shall be valid for no more than six (6) months.

(C) Upon receipt of information from the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police that only one (1) of the partners or shareholders of the school holding the license has been convicted of any offense listed in § 6-51-606(h)(3), the ~~Department~~ **Division** of Higher Education shall revoke the license.

(o)(1) The provisions of § 6-51-606(h) may be waived by the ~~Department~~ **Division** of Higher Education upon the request of:

(A) An affected applicant for licensure; or

(B) The partners or shareholders of a school holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

(A) The age at which the crime was committed;

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat.

(p)(1) Any information received by the ~~Department~~ **Division** of Higher Education from the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police under this section shall not be available for examination except by:

- (A) The affected applicant for licensure or his or her authorized representative; or
- (B) The person whose license is subject to revocation or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the ~~Department~~ **Division** of Arkansas State Police.

(q) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.

(r) Rights of privilege and confidentiality established in this section shall not extend to any document created for purposes other than the background check required by this section.

(s) In consultation with the board, the ~~Department~~ **Division** of Higher Education shall adopt the necessary rules to fully implement the provisions of this section.

SECTION 1871. Arkansas Code § 6-51-606(a), concerning school licenses, is amended to read as follows:

<< AR ST § 6-51-606 >>

(a) No persons shall operate, conduct, maintain, or offer to operate in this state a school as defined in this subchapter, or solicit the enrollment of students residing in the state, unless a license is first secured from the ~~Department~~ **Division** of Higher Education issued in accordance with the provisions of this subchapter and the rules promulgated by the ~~department~~ **division** in consultation with the State Board of Private Career Education.

SECTION 1872. Arkansas Code § 6-51-606(b)(1), concerning school licenses, is amended to read as follows:

<< AR ST § 6-51-606 >>

(b)(1) Application for a license shall be filed in the manner and upon the forms prescribed and furnished by the ~~department~~ **division** for that purpose.

SECTION 1873. Arkansas Code § 6-51-606(d), concerning school licenses, is amended to read as follows:

<< AR ST § 6-51-606 >>

(d) The license shall remain the property of the State of Arkansas and shall be returned to the ~~department~~ **division** upon cause.

SECTION 1874. Arkansas Code § 6-51-606(e)(1), concerning school licenses, is amended to read as follows:

<< AR ST § 6-51-606 >>

(e)(1) If the ~~department~~ **division**, after evaluating the school as to kind and type, is unable to make a determination regarding initial approval of a licensure application within sixty (60) days of receipt of the application and required documentation, it shall issue a temporary license valid for a period of not more than six (6) months, pending an investigation.

SECTION 1875. Arkansas Code § 6–51–606(f), concerning school licenses, is amended to read as follows:

<< AR ST § 6–51–606 >>

(f) After a license is issued to any school by the ~~department~~ **division** on the basis of its application, it shall be the responsibility of the school to notify immediately the ~~department~~ **division** of any changes in the ownership, administration, location, faculty, or programs of study on the forms and in the manner prescribed by the ~~department~~ **division**.

SECTION 1876. Arkansas Code § 6–51–606(h)–(l), concerning school licenses, is amended to read as follows:

<< AR ST § 6–51–606 >>

(h) The ~~department~~ **division** shall have the power to deny issuing a new or renewal license, to revoke an existing license, or to place a licensee on probation, if in its discretion it determines that:

- (1) The licensee has violated any of the provisions of this subchapter or any of the rules of the ~~department~~ **division**;
- (2) The applicant or licensee has knowingly presented to the ~~department~~ **division** incomplete or misleading information relating to licensure;
- (3) The applicant or licensee has pleaded guilty, entered a plea of nolo contendere, or has been found guilty in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld, deferred, or suspended by a court of this state, another state, or the federal government, of:
 - (A) Any felony; or
 - (B) Any act involving moral turpitude, gross immorality, or which is related to the qualifications, functions, and duties of a licensee;
- (4) The applicant or licensee has intentionally failed or refused to permit the ~~department~~ **division** or its representatives to inspect the school or classes or has intentionally failed or refused to make available to the ~~department~~ **division**, at any time when requested to do so, full information pertaining to any or all items of information contained in an application for license or pertaining to the operation of the school;
- (5) The applicant has failed or refused to submit to the ~~department~~ **division** an application for license or renewal in the manner and on the forms prescribed;
- (6) A licensed admissions representative has failed or refused to display or produce his or her license when requested to do so by prospective students or designated officials of the ~~department~~ **division**;
- (7) The applicant or licensee has failed to provide or maintain premises, equipment, materials, supplies, or conditions in accordance with minimum standards as established by rules;
- (8) The licensee has been found by the ~~department~~ **division** or a court of law to have perpetrated fraud or deceit in advertising of the school or programs of study or in presenting to prospective students information relating to the school, programs of study, employment opportunities, or opportunities for enrollment in institutions of higher education;
- (9) The licensee has in its employ admissions representatives who have not been licensed but are actively engaged in the practice of attempting to enroll students;

- (10) The licensee has failed to provide and maintain standards of instruction or qualified administrative, supervisory, or instructional staff as established by rules;
- (11) The applicant or licensee is unable to provide and maintain financial resources in sufficient amount to equip and maintain the school or classes;
- (12) The licensee has moved the school into new premises or facilities without first notifying the department **division**;
- (13) The licensee has offered training or instruction in programs of study which have not been approved and authorized in accordance with rules;
- (14) A licensed admissions representative has solicited prospective students to enroll in a school which has not been licensed by the department **division** or which is not listed on his or her license;
- (15) There was a change in the ownership of the school without proper notification to and approval from the department **division**;
- (16) The licensee has failed to notify the department **division** or to provide written documentation as to the cause that the license of a school has been suspended or revoked or the school has been placed on probation or a show cause issued in another state or by another regulatory agency;
- (17) The licensee has failed to notify the department **division** of legal actions initiated by or against the school; or
- (18) The licensee fails to make tuition refunds to the students or their lenders in compliance with current rules.
- (i) The department **division** shall have the power to revoke a license if in its discretion it determines that:
- (1) The licensee has failed to cure a deficiency leading to a license probation within the time as may be reasonably prescribed by the department **division**;
 - (2) The licensee while on probation has been found by the department **division** to have incurred an additional infraction of this subchapter; or
 - (3) The licensee has closed a school without first having completed the training of all students currently enrolled or having made tuition refunds to students or their lenders.
- (j) The department **division** may impose sanctions under § 25-15-217.
- (k)(1) Unless directed to do so by court order, the department **division** shall not, for a period of five (5) years following revocation, reinstate the license of a school or allow an owner of any such school to seek licensure of another school.
- (2) Upon expiration of licensure status, the school must apply for an original license in accordance with the provisions of this subchapter.
- (l)(1) Upon closure of a school located in Arkansas and licensed under any provision of this subchapter, whether for license revocation or any other cause, all student financial aid records for the previous three (3) years and all student transcripts regardless of age must be delivered to the department **division**.
- (2) Delivered records shall be arranged in alphabetical order and stored in boxes or in data format at the discretion of the department **division**.
 - (3) The department **division** shall be responsible for the proper security, storage, and maintenance of all such records.

SECTION 1877. Arkansas Code § 6-51-607(a)(1) and (2), concerning the Private Career School Student Protection Trust Fund, is amended to read as follows:

<< AR ST § 6-51-607 >>

(a)(1) Each school licensed under this subchapter shall pay annually a fee to be set by the ~~Department~~ **Division** of Higher Education in consultation with the State Board of Private Career Education.

(2) The fee shall be set at the amount the ~~department~~ **division** deems necessary to establish the Private Career School Student Protection Trust Fund and to maintain the ~~Private Career School Student Protection Trust Fund~~ **fund** as necessary.

(3) For a renewing school, the fee shall be based on the enrollment of Arkansas residents in the preceding twelve (12) months of July 1 through June 30.

(4)(A) For an original license, the fee shall be a percentage as determined by the ~~department~~ **division** of the sum of the tuitions for each program offered.

(B) Additionally, during the first twelve (12) months of licensure, the same percentage shall be paid to the Private Career School Student Protection Trust Fund on additional new programs of study.

SECTION 1878. Arkansas Code § 6-51-607(c)(2)(A), concerning the Private Career School Student Protection Trust Fund, is amended to read as follows:

<< AR ST § 6-51-607 >>

(2)(A) However, regardless of the balance in the ~~Private Career School Student Protection Trust Fund~~ **fund**, a fee, as set by the ~~department~~ **division**, will be assessed newly licensed schools.

SECTION 1879. Arkansas Code § 6-51-607(d)(1), concerning the Private Career School Student Protection Trust Fund, is amended to read as follows:

<< AR ST § 6-51-607 >>

(d)(1) The assets of the ~~Private Career School Student Protection Trust Fund~~ **fund** may be invested and reinvested as the ~~department~~ **division** may determine.

SECTION 1880. The introductory language of Arkansas Code § 6-51-607(e), concerning the Private Career School Student Protection Trust Fund, is amended to read as follows:

<< AR ST § 6-51-607 >>

(e) The ~~department~~ **division** may use any amounts in the ~~Private Career School Student Protection Trust Fund~~ **fund**, including accumulated interest, to:

SECTION 1881. The introductory language of Arkansas Code § 6-51-607(f), concerning the Private Career School Student Protection Trust Fund, is amended to read as follows:

<< AR ST § 6-51-607 >>

(f) Any amounts in the ~~Private Career School Student Protection Trust Fund~~ **fund** above the required five hundred thousand dollars (\$500,000) may be used with the approval of the Director of the ~~Department~~ **Division** of Higher Education to:

SECTION 1882. Arkansas Code § 6-51-607(g)(1) and (2), concerning the Private Career School Student Protection Trust Fund, are amended to read as follows:

<< AR ST § 6-51-607 >>

(g)(1) If a school closes, the ~~department~~ **division** shall attempt to place each student of the school in another school.

(2) If the student cannot be placed in another school, the student's tuition for which education has not been received may be refunded on a prorated basis in the manner prescribed by the ~~department~~ **division**.

SECTION 1883. Arkansas Code § 6-51-608(a)(1), concerning extension course sites, satellite schools, and additional school licenses, is amended to read as follows:

<< AR ST § 6-51-608 >>

(a)(1) Any school licensed under this subchapter shall make application to the ~~Department~~ **Division** of Higher Education to offer a course or courses at an extension course site or satellite school.

SECTION 1884. Arkansas Code § 6-51-608(b), concerning extension course sites, satellite schools, and additional school licenses, is amended to read as follows:

<< AR ST § 6-51-608 >>

(b) The school will be assessed a fee as set by the ~~department~~ **division** to be deposited in the Private Career School Student Protection Trust Fund.

SECTION 1885. Arkansas Code § 6-51-609(a), concerning an admissions representative's license, is amended to read as follows:

<< AR ST § 6-51-609 >>

(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 1886. Arkansas Code § 6-51-609(c)(2), concerning an admissions representative's license, is amended to read as follows:

<< AR ST § 6-51-609 >>

(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 1887. Arkansas Code § 6–51–609(d)(6), concerning an admissions representative's license, is amended to read as follows:

<< AR ST § 6–51–609 >>

(6) Be in compliance with any other reasonable qualifications that the ~~Department~~ **Division** of Higher Education may fix by rule.

SECTION 1888. Arkansas Code § 6–51–609(e)(1), concerning an admissions representative's license, is amended to read as follows:

<< AR ST § 6–51–609 >>

(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 1889. Arkansas Code § 6–51–609(e)(3), concerning an admissions representative's license, is amended to read as follows:

<< AR ST § 6–51–609 >>

(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 1890. Arkansas Code § 6–51–609(f)(1)(A), concerning an admissions representative's license, is amended to read as follows:

<< AR ST § 6–51–609 >>

(f)(1)(A) The ~~Department~~ **Division** of Higher Education may issue a nonrenewable temporary license pending the results of the criminal background check.

SECTION 1891. Arkansas Code § 6–51–609(f)(2), concerning an admissions representative's license, is amended to read as follows:

<< AR ST § 6–51–609 >>

(2) Upon receipt of information from the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police that the person holding the temporary license has been convicted of a felony, Class A misdemeanor, or a crime involving an act of violence for which a pardon has not been granted, the ~~Department~~ **Division** of Higher Education shall immediately revoke the temporary license.

SECTION 1892. The introductory language of Arkansas Code § 6-51-609(g)(1), concerning an admissions representative's license, is amended to read as follows:

<< AR ST § 6-51-609 >>

(g)(1) The provisions of subdivision (d)(3) of this section may be waived by the ~~Department~~ **Division** of Higher Education upon the request of:

SECTION 1893. The introductory language of Arkansas Code § 6-51-609(h)(1), concerning an admissions representative's license, is amended to read as follows:

<< AR ST § 6-51-609 >>

(h)(1) Any information received by the ~~Department~~ **Division** of Higher Education from the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police under this section shall not be available for examination except by:

SECTION 1894. Arkansas Code § 6-51-609(h)(2), concerning an admissions representative's license, is amended to read as follows:

<< AR ST § 6-51-609 >>

(2) A record, file, or document shall not be removed from the custody of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 1895. Arkansas Code § 6-51-609(k), concerning an admissions representative's license, is amended to read as follows:

<< AR ST § 6-51-609 >>

(k) In consultation with the State Board of Private Career Education, the ~~Department~~ **Division** of Higher Education shall adopt the necessary rules to fully implement the provisions of this section.

SECTION 1896. Arkansas Code § 6-51-610(a), concerning fees for schools and admission representatives, is amended to read as follows:

<< AR ST § 6-51-610 >>

(a) In consultation with the State Board of Private Career Education, the ~~Department~~ **Division** of Higher Education shall set fees for schools and admissions representatives.

SECTION 1897. Arkansas Code § 6-51-611(b), concerning school license renewal, is amended to read as follows:

<< AR ST § 6-51-611 >>

(b) The licensing period shall be determined by the ~~Department~~ **Division** of Higher Education.

SECTION 1898. Arkansas Code § 6-51-611(c)(1), concerning license renewal, is amended to read as follows:

<< AR ST § 6-51-611 >>

(c)(1) Application for renewal of a school license is to be provided in the form and manner prescribed by the ~~department~~ **division**.

SECTION 1899. Arkansas Code § 6-51-611(d), concerning license renewal, is amended to read as follows:

<< AR ST § 6-51-611 >>

(d) An application for renewal of an admissions representative's license shall be made on the forms and in the manner prescribed by the ~~department~~ **division**.

SECTION 1900. Arkansas Code § 6-51-614(a), concerning denial, probation, revocation, and review of school licenses, is amended to read as follows:

<< AR ST § 6-51-614 >>

(a) The ~~Department~~ **Division** of Higher Education shall have the authority to refuse to issue a school license, to place on probation, or to revoke a school license theretofore issued.

SECTION 1901. Arkansas Code § 6-51-615(b), concerning denial, suspension, review, and penalties regarding admissions representative's licenses, is amended to read as follows:

<< AR ST § 6-51-615 >>

(b) The Director of the ~~Department~~ **Division** of Higher Education, upon receipt of information considered dependable which indicates fraud, misrepresentation, or unethical practices on the part of an applicant, may deny issuance of a license applied for or may suspend immediately a license already issued pending a review by the ~~Department~~ **Division** of Higher Education.

SECTION 1902. Arkansas Code § 6-51-617(b)(1), concerning the Private Career Education Arbitration Panel, is amended to read as follows:

<< AR ST § 6-51-617 >>

(b)(1) In consultation with the State Board of Private Career Education, the Director of the ~~Department~~ **Division** of Higher Education shall appoint the arbitration panel, which shall be composed of three (3) members. One (1) member shall be from the school sector, and two (2) members shall be from the general public.

SECTION 1903. Arkansas Code § 6-51-618 is amended to read as follows:

<< AR ST § 6-51-618 >>

6-51-618. Fines.

(a) When the ~~Department~~ **Division** of Higher Education finds that a school is guilty of a violation of this subchapter or the rules of the ~~department~~ **division**, it shall have the power and authority to impose a penalty on the school.

(b) Prior to the imposition of any penalty, the ~~department~~ **division** shall hold an investigation and hearing after notice to the school.

(c)(1) Upon imposition of a penalty, the ~~department~~ **division** shall have the power and authority to require that the school pay a penalty to the ~~department~~ **division** with regard to the violation, with the sanction that the license may be suspended until the penalty is paid.

(2) No penalty imposed by the ~~department~~ **division** may exceed five hundred dollars (\$500) per violation.

(d) Any school dissatisfied with the penalties imposed may seek judicial review, provided the school files notice of appeal in Pulaski County Circuit Court within fifteen (15) calendar days immediately following the date of notification of this action by the Director of the ~~Department~~ **Division** of Higher Education.

(e) The power and authority of the ~~department~~ **division** to impose these penalties shall not be affected by any other civil or criminal proceeding concerning the same violation.

SECTION 1904. Arkansas Code § 6-51-619 is amended to read as follows:

<< AR ST § 6-51-619 >>

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 1905. 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:

<< AR ST § 6-51-620 >>

(2) The surety bond shall be submitted to the ~~Department~~ **Division** of Higher Education on or before the expiration date of the bond.

SECTION 1906. Arkansas Code § 6-51-620(a)(4)(A)(i), concerning the requirement of a school to maintain a surety bond while licensed, is amended to read as follows:

<< AR ST § 6-51-620 >>

(i) A violation of a provision of this subchapter or any rule of the ~~department~~ **division** by the school or its officers, admissions representatives, or employees;

SECTION 1907. Arkansas Code § 6-51-620(a)(4)(C)(ii), concerning the requirement of a school to maintain a surety bond while licensed, is amended to read as follows:

<< AR ST § 6-51-620 >>

(ii) The ~~department~~ **division** shall notify the school in writing at least ten (10) days prior to release of the surety or sureties that the license is suspended until another surety bond is filed in the manner and amount required under this ~~chapter~~ **subchapter**.

SECTION 1908. Arkansas Code § 6-51-620(a)(5)(A), concerning the requirement of a school to maintain a surety bond while licensed, is amended to read as follows:

<< AR ST § 6-51-620 >>

(5)(A) The bond shall be based on gross tuition, meaning the total amount collected by a school during the most recently completed twelve-month fiscal year, reduced only by the amount of refunds paid during the fiscal year, for tuition, application fees, registration fees, and those other fees deemed appropriate by rule of the ~~department~~ **division**;

SECTION 1909. The introductory language of Arkansas Code § 6-51-620(a)(6), concerning the requirement of a school to maintain a surety bond while licensed, is amended to read as follows:

<< AR ST § 6-51-620 >>

(6) The ~~department~~ **division** shall determine the sum of each surety bond based upon the following guidelines:

SECTION 1910. Arkansas Code § 6-51-620(a)(6)(A), concerning the requirement of a school to maintain a surety bond while licensed, is amended to read as follows:

<< AR ST § 6-51-620 >>

(A) Except as provided in subdivisions (a)(6)(B) and (C) of this section, a school shall procure and maintain a bond equal to ten percent (10%) of the gross tuition with a minimum bond amount of five thousand dollars (\$5,000) with the maximum bond amount to be determined by the ~~department~~ **division**;

SECTION 1911. Arkansas Code § 6-51-620(b), concerning the requirement of a school to maintain a surety bond while licensed, is amended to read as follows:

<< AR ST § 6-51-620 >>

(b) A surety bond is not required for licensees approved by the ~~department~~ **division** on April 10, 1995, that maintain continuous licensure.

SECTION 1912. Arkansas Code § 6-51-622(d), concerning noncommercial driver training instruction, is amended to read as follows:

<< AR ST § 6-51-622 >>

(d)(1) In consultation with the State Board of Private Career Education, the ~~Department~~ **Division** of Higher Education may promulgate reasonable rules to implement, enforce, and administer this section.

(2) The rules of the ~~department~~ **division** shall be issued in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 1913. Arkansas Code § 6-51-623 is amended to read as follows:

<< AR ST § 6-51-623 >>

6-51-623. Defensive driving instruction.

A person shall not be required to obtain a license from the ~~Department~~ **Division** of Higher Education as a requirement for teaching or providing a course in defensive driving under a court-mandated defensive driving class.

SECTION 1914. Arkansas Code § 6-51-701(a), concerning the establishment of an Associate of Applied Science Degree in Nursing Program, is amended to read as follows:

<< AR ST § 6-51-701 >>

(a) The ~~Department of Career Education~~ **Division of Higher Education** is hereby authorized to establish for the technical institutes or vocational-technical schools of this state an Associate of Applied Science Degree in Nursing Program.

SECTION 1915. Arkansas Code § 6-51-701(b)(1), concerning the establishment of an Associate of Applied Science Degree in Nursing Program, is amended to read as follows:

<< AR ST § 6-51-701 >>

(b)(1) A nursing program shall be established by the ~~department~~ **division**. The nursing program shall be in accordance with the standards established by the Arkansas State Board of Nursing.

SECTION 1916. Arkansas Code § 6-51-901(3), concerning the purpose of the laws regarding postsecondary vocational and technical education, is amended to read as follows:

<< AR ST § 6-51-901 >>

(3) Augment the ~~State Board of Career Education~~ **Arkansas Higher Education Coordinating Board** by increasing its membership that is representative of business and industry, including the service-oriented industries in Arkansas.

SECTION 1917. Arkansas Code § 6-51-902(a), concerning accountability measures and performance indicators, is amended to read as follows:

<< AR ST § 6-51-902 >>

(a)(1) All postsecondary vocational-technical schools, technical institutes, and comprehensive lifelong learning centers within the State of Arkansas shall present to the ~~State Board of Career Education~~ **Arkansas Higher Education Coordinating Board** and the ~~Department of Career Education~~ **Division of Higher Education** a report reflecting a satisfactory level of performance-based system of accountability measures and performance indicators as defined in this section.

(2) The report shall be filed with the ~~State Board of Career Education~~ **Arkansas Higher Education Coordinating Board** and the ~~department~~ **division** annually.

SECTION 1918. The introductory language of Arkansas Code § 6-51-902(b), concerning accountability measures and performance indicators, is amended to read as follows:

<< AR ST § 6-51-902 >>

(b) In order to promote a coordinated system of postsecondary vocational and technical education in Arkansas and to provide an effective delivery system, the ~~State Board of Career Education~~ **Arkansas Higher Education Coordinating Board** shall:

SECTION 1919. Arkansas Code § 6-51-902(c)-(f), concerning accountability measures and performance indicators, are amended to read as follows:

<< AR ST § 6-51-902 >>

(c) With the exception of a special funding appropriation, all state funds shall be requested by the ~~State Board of Career Education~~ **Arkansas Higher Education Coordinating Board** for the technical institutes, postsecondary vocational-technical schools, and comprehensive lifelong learning centers based on a funding formula to be developed and approved by the ~~State Board of Career Education~~ **Arkansas Higher Education Coordinating Board** and shall be based upon the accountability measures and performance indicators enumerated in this section.

(d) Upon the failure to find that satisfactory progress is being made by the school, the ~~State Board of Career Education~~ **Arkansas Higher Education Coordinating Board** shall dissolve the operation of the school or convert the school to an adult education center, a secondary vocational center, or another appropriate role and function.

(e) For purposes of standardized reporting and accountability only, ~~the State Board of Career Education, after consultation with~~ the Arkansas Higher Education Coordinating Board, shall develop for all postsecondary vocational schools, technical institutes, and comprehensive lifelong learning centers a reporting system for headcount enrollment and full-time-equivalency enrollment which is consistent with policies followed by the Arkansas Higher Education Coordinating Board.

(f) Riverside Vocational and Technical School shall be exempt from all provisions of this subchapter except this section and shall remain a postsecondary vocational-technical school as presently structured under the State Board of Career Education **Department of Corrections**.

SECTION 1920. Arkansas Code § 6-51-904(a)(3), concerning the duties of local boards for technical institutes, is amended to read as follows:

<< AR ST § 6-51-904 >>

(3) To appoint from the candidates certified by the Career Education and Workforce Development Board **Arkansas Higher Education Coordinating Board** and approved by the Governor, the president of the technical institute or director of the comprehensive lifelong learning center;

SECTION 1921. Arkansas Code § 6-51-904(a)(5) and (6), concerning the duties of local boards for technical institutes, is amended to read as follows:

<< AR ST § 6-51-904 >>

(5) To determine, with the approval of the Career Education and Workforce Development Board **Arkansas Higher Education Coordinating Board**, the educational program of the institution; and

(6) Other powers and duties as provided in this subchapter or as delegated to it by the Career Education and Workforce Development Board **including without limitation those relating to accountability measures and performance indicators under § 6-51-902**.

SECTION 1922. Arkansas Code § 6-51-905(b), concerning technical institutes, is amended to read as follows:

<< AR ST § 6-51-905 >>

(b) Each technical institute shall operate within a service area assigned by the Career Education and Workforce Development Board **Arkansas Higher Education Coordinating Board**.

SECTION 1923. Arkansas Code § 6-51-905(e)(1)(B), concerning technical institutes, is amended to read as follows:

<< AR ST § 6-51-905 >>

(B) The plan shall be submitted annually to the local board of directors and the Career Education and Workforce Development Board **Arkansas Higher Education Coordinating Board** for approval.

SECTION 1924. Arkansas Code § 6-51-906(b) and (c), concerning comprehensive lifelong learning centers, are amended to read as follows:

<< AR ST § 6-51-906 >>

(b) The Career Education and Workforce Development Board **Arkansas Higher Education Coordinating Board** shall establish criteria and program expansions which would require all remaining postsecondary vocational-technical schools to become comprehensive lifelong learning centers.

(c)(1) When a postsecondary vocational-technical school meets the criteria for becoming a comprehensive lifelong learning center as established by the ~~Career Education and Workforce Development Board~~ **Arkansas Higher Education Coordinating Board**, the school shall make application to the board **Arkansas Higher Education Coordinating Board** seeking that it be designated as such.

(2) Each comprehensive lifelong learning center shall operate within a service area assigned by the ~~Career Education and Workforce Development Board~~ **Arkansas Higher Education Coordinating Board**.

(3)(A) Each comprehensive lifelong learning center may operate satellite campuses apart from the campus of the main center but within the service area of the center.

(B) The establishment, locations, and number of satellite campuses of a center must be approved by the ~~Career Education and Workforce Development Board~~ **Arkansas Higher Education Coordinating Board**.

(4) The board of directors of a comprehensive lifelong learning center may contract with existing institutions of higher education for the operation of any associate degree programs offered at the center, upon approval by the ~~Career Education and Workforce Development Board~~ and the **Arkansas Higher Education Coordinating Board**.

(A) Any degree program at or above the associate degree level offered at a comprehensive lifelong learning center must be approved by the **Arkansas Higher Education Coordinating Board** and awarded by an Arkansas institution of higher education accredited by an accrediting agency recognized by the United States Department of Education.

(B) Any such degree program must be offered through the center's ~~Center for Collegiate Instruction~~ **center for collegiate instruction**.

SECTION 1925. Arkansas Code § 6-51-906(e)(3)(A), concerning comprehensive lifelong learning centers, are amended to read as follows:

<< AR ST § 6-51-906 >>

(A) The plan shall be submitted annually to the local board of directors and the ~~Career Education and Workforce Development Board~~ **Arkansas Higher Education Coordinating Board** for approval.

SECTION 1926. Arkansas Code § 6-51-907(c)(2), concerning college transfer courses and expanded associate degrees instruction, is amended to read as follows:

<< AR ST § 6-51-907 >>

(2) The guidelines for establishing the memorandum of understanding shall be developed by the **Arkansas Higher Education Coordinating Board** ~~in conjunction with the Career Education and Workforce Development Board~~ .

SECTION 1927. Arkansas Code § 6-52-201(8), concerning apprenticeship training programs and the definition of “vo-tech”, is repealed.

<< AR ST § 6-52-201 >>

(8) ~~“Vo-Tech” means the Department of Career Education.~~

SECTION 1928. Arkansas Code § 6-53-206 is amended to read as follows:

<< AR ST § 6-53-206 >>

6-53-206. Equipment pool.

The ~~Department~~ **Division** of Higher Education, in coordination with the institutions, shall develop an effective means of pooling surplus equipment for redistribution to other institutions. Such equipment pool arrangement may include the crediting of equipment values to the institution for equipment acquired from a source other than the state.

SECTION 1929. Arkansas Code § 6-53-301(f)(2), concerning the Arkansas Technical and Community College System, is amended to read as follows:

<< AR ST § 6-53-301 >>

(2) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the technical college shall be transferred to the ~~Department~~ **Division** of Higher Education.

SECTION 1930. Arkansas Code § 6-53-302(i), concerning the local administration of technical colleges, is amended to read as follows:

<< AR ST § 6-53-302 >>

(i) The local board may contract with the ~~Department~~ **Division** of Career **and Technical** Education, with a nonprofit organization, or with a local school board within its service area to offer secondary level general academic and vocational and technical courses and programs or adult literacy courses, or both.

SECTION 1931. Arkansas Code § 6-53-306 is amended to read as follows:

<< AR ST § 6-53-306 >>

6-53-306. Coordination with secondary vocational-technical education and literacy programs.

Upon the approval of the Arkansas Higher Education Coordinating Board, the local board may contract with the ~~Department~~ **Division** of Career **and Technical** Education, a nonprofit organization, or a local school district board of directors within its service area to offer secondary-level vocational and technical courses and programs, adult literacy courses, and industry training.

SECTION 1932. Arkansas Code § 6-53-402(g)(2), concerning the conversion of two-year branches into technical colleges, is amended to read as follows:

<< AR ST § 6-53-402 >>

(2) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the technical college shall be transferred to the ~~Department~~ **Division** of Higher Education.

SECTION 1933. Arkansas Code § 6-53-403(j)(2), concerning the conversion of technical colleges and two-year branches into community colleges, is amended to read as follows:

<< AR ST § 6-53-403 >>

(2) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the community college shall be transferred to the ~~Department~~ **Division** of Higher Education.

SECTION 1934. Arkansas Code § 6-53-404(h)(2), concerning technical colleges and acceptance as branch campus of community college, is amended to read as follows:

<< AR ST § 6-53-404 >>

(2) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the satellite campus shall be transferred to the ~~Department~~ **Division** of Higher Education.

SECTION 1935. Arkansas Code § 6-54-105, concerning accreditation and abolishment of technical colleges, is amended to read as follows:

<< AR ST § 6-54-105 >>

6-54-105. Accreditation — Abolishment.

If the technical college fails to achieve such accreditation within eight (8) years following the date of transfer under § 6-54-104(d), the technical college shall be abolished by the Arkansas Higher Education Coordinating Board. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the technical college shall be transferred to the ~~Department~~ **Division** of Higher Education.

SECTION 1936. Arkansas Code § 6-58-112 is amended to read as follows:

<< AR ST § 6-58-112 >>

6-58-112. Conversion of positions and maximum salaries for Quapaw Technical Institute.

The maximum salaries as authorized for the positions in the appropriations act for Quapaw Technical Institute shall be converted to the maximum salaries for the equivalent or similar positions as authorized in the appropriations act for ~~Garland County Community College~~ **National Park College**. The conversion of the maximum salaries shall be approved by the ~~Department~~ **Division** of Higher Education for line item salaries or by the Department of Finance and Administration for classified salaries and be reported to the Legislative Council.

SECTION 1937. Arkansas Code § 6-59-101(1), concerning the definition of “adult education program” under Arkansas Northeastern College, is amended to read as follows:

<< AR ST § 6-59-101 >>

(1) “Adult education program” means any classes designed to assist students in preparing for a high school equivalency test and any class designed to improve performance in general basic skills, parenting, English proficiency, or other areas funded by the Adult Education Section of the ~~Department of Career Education~~ **Workforce Services**; and

SECTION 1938. Arkansas Code § 6-60-203 is amended to read as follows:

<< AR ST § 6-60-203 >>

6-60-203. Off-campus enrollments.

In order to provide needed off-campus services to Arkansas citizens who do not happen to reside in the location of the main campus of a college or university, the Department **Division** of Higher Education is instructed to count and otherwise treat off-campus class enrollments consistent with the enrollments for those same classes on the main campus of the institution.

SECTION 1939. Arkansas Code § 6-60-204(b), concerning the waiver of general student fee charges for senior citizens, is amended to read as follows:

<< AR ST § 6-60-204 >>

(b) Fees will be waived only for courses organized to grant credit and recognized by the Department **Division** of Higher Education for credit.

SECTION 1940. Arkansas Code § 6-60-208(d)(1), concerning the requirements for academic clemency, is amended to read as follows:

<< AR ST § 6-60-208 >>

(d)(1) Conditional admissions standards for nontraditional students shall be based on the student's score on the American College Test (**ACT**) composite or its equivalent as defined by the Department **Division** of Higher Education, which shall issue guidelines to assist two-year and four-year institutions of higher education in developing conditional admissions standards.

SECTION 1941. Arkansas Code § 6-60-303(c) and (d), concerning the Higher Education Tuition Adjustment Fund, are amended to read as follows:

<< AR ST § 6-60-303 >>

(c) Tracking and Reporting.

(1) Furthermore, the Department **Division** of Higher Education will require each institution to track and report the number of qualifying students each year.

(2)(A) A list of students who benefit from the out-of-state tuition waiver, including their social security numbers 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.

(B) Documentation should be either an official W-2 form from an Arkansas employer reflecting wages of at least five thousand five hundred dollars (\$5,500) in the tax year prior to enrollment in college or official employer verification of a current year salary minimum of at least five thousand five hundred dollars (\$5,500), which the college will keep on file for enrollment audit purposes.

(d) Appropriation Transfer Procedures.

(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 the students as compared to the approved in-state or out-of-district rate.

(2) Upon the determination, the director shall certify to the Chief Fiscal Officer of the State and the Treasurer of State those amounts that are required to be transferred from the fund **Higher Education Tuition Adjustment Fund**.

(3) Upon receiving the 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 certification from the director.

(4) In order to provide funding for the appropriation set out in the line item entitled Tuition Adjustment in the biennial operations appropriation act for the ~~Department~~ **Division** of Higher Education, the Chief Fiscal Officer of the State shall transfer to the Higher Education Tuition Adjustment Fund from the Higher Education Grants Fund Account three hundred fifty thousand dollars (\$350,000) for each year of the biennium.

SECTION 1942. Arkansas Code § 6-60-703(a), concerning the Comprehensive Arkansas Higher Education Annual Report, is amended to read as follows:

<< AR ST § 6-60-703 >>

(a)(1) The Comprehensive Arkansas Higher Education Annual Report shall be submitted by the ~~Department~~ **Division** of Higher Education to the House Committee on Education and the Senate Committee on Education, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor no later than December 15, 2011, and each year thereafter.

(2) The Comprehensive Arkansas Higher Education Annual Report shall be posted on the ~~department~~ **division** website for public inspection no later than January 1, 2012, and each year thereafter.

SECTION 1943. Arkansas Code § 6-60-703(d)(2), concerning the Comprehensive Arkansas Higher Education Annual Report, is amended to read as follows:

<< AR ST § 6-60-703 >>

(2) Include a fiscal impact on administrative costs to the ~~department~~ **division**.

SECTION 1944. Arkansas Code § 6-60-704 is amended to read as follows:

<< AR ST § 6-60-704 >>

6-60-704. Information submitted to the ~~Department~~ **Division of Higher Education for inclusion in the report.**

(a) All higher education reports submitted to the General Assembly or other governmental bodies by individual colleges and universities, agencies, boards, or commissions shall be submitted directly to the ~~Department~~ **Division** of Higher Education no later than November 1, 2011, and each year thereafter for inclusion in the Comprehensive Arkansas Higher Education Annual Report.

(b) If an institution of higher education fails to submit the required reports to the ~~department~~ **division** by November 15, the institutions shall appear before the House Committee on Education and the Senate Committee on Education to explain why they failed to meet the submission deadline.

(c) Financial information provided by an institution of higher education is subject to review by the ~~Division~~ of **Arkansas Legislative Audit**, and any adjustments made to previously submitted financial information during the course of a financial audit may be revised based upon recommendations made by the ~~division~~ **Arkansas Legislative Audit**.

SECTION 1945. Arkansas Code § 6-60-705 is amended to read as follows:

<< AR ST § 6-60-705 >>

6-60-705. Limitations.

(a) This subchapter does not limit the authority of the General Assembly to request additional interim reports and supplemental information from the Department **Division** of Higher Education, colleges and universities, or other entities as needed.

(b) The Comprehensive Arkansas Higher Education Annual Report shall take priority for the department **division** staff over a report requested under subsection (a) of this section.

SECTION 1946. Arkansas Code § 6-60-806(b), concerning the rules, promulgation, and authority of the Arkansas Higher Education Coordinating Board, is amended to read as follows:

<< AR ST § 6-60-806 >>

(b)(1) The Department **Division** of Higher Education may enforce compliance with this subchapter and any rules promulgated under this subchapter by the board.

(2) Under the rules of the board, the department **division** may enter upon and inspect a campus at any reasonable time and in a reasonable manner.

SECTION 1947. Arkansas Code § 6-60-901(1), concerning the definition of “Arkansas Higher Education Information System” under the laws governing the Arkansas Higher Education Information System, is amended to read as follows:

<< AR ST § 6-60-901 >>

(1) “Arkansas Higher Education Information System” means the database maintained by the Department **Division** of Higher Education containing student data files that the department **division** and institutions of higher education in Arkansas are required to collect under §§ 6-85-214, 6-85-216, and 6-85-217, other state law, and federal law; and

SECTION 1948. Arkansas Code § 6-60-902 is amended to read as follows:

<< AR ST § 6-60-902 >>

6-60-902. Arkansas Higher Education Information System.

(a) The Department **Division** of Higher Education shall develop and maintain the Arkansas Higher Education Information System.

(b)(1) ~~By December 31, 2011, the Department~~ **The Division** of Higher Education shall provide the Bureau of Legislative Research with direct read-and-report-only access to the data warehouse of the system concerning student academic data, financial aid data, and related records.

(2)(A) In providing the bureau with the direct read-and-report-only access required under subdivision (b)(1) of this section, the Department **Division** of Higher Education shall take reasonable precautions, including electronic blocking or redacting, to prevent the disclosure of:

(i) Personally identifiable information of a student, unless the parent or guardian of a minor student or a student who is no longer a minor consents in writing to the disclosure of personally identifiable information about that student; or

(ii) Information that would cause the ~~Department~~ **Division** of Higher Education to lose funding under 20 U.S.C. § 1232g, as it existed on January 1, 2011.

(B) The ~~Department~~ **Division** of Higher Education shall:

(i) Work with the ~~Department of Education~~ **Division of Elementary and Secondary Education** to develop the method of redaction to be used with the system based on the standards used by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; and

(ii) Disclose to the bureau and to the Legislative Council the method of electronic blocking or redaction the ~~Department~~ **Division** of Higher Education will use under this subsection.

(3)(A) The ~~Department~~ **Division** of Higher Education shall make its staff reasonably accessible for consultation with bureau staff in developing and responding appropriately to bureau requests under this section.

(B)(i) The bureau staff shall inform the ~~Department~~ **Division** of Higher Education of any warehouse data used in the preparation of reports and provide the ~~Department~~ **Division** of Higher Education at least one (1) working day to review any student-related warehouse data used in preparation of reports before publicly releasing that student-related data without personally identifiable information of a student.

(ii) This subdivision (b)(3)(B) does not waive the confidentiality of a request of a member of the General Assembly under § 10–2–129.

(c) The ~~Department~~ **Division** of Higher Education shall provide other information and records requested by the bureau as soon as possible and in whatever reasonable form requested.

(d) To the extent possible, the ~~Department~~ **Division** of Higher Education, in cooperation with the ~~Department of Education~~ **Division of Elementary and Secondary Education**, shall maintain the system in a manner that ultimately will be compatible with implementing a P–20W student data system for the state.

SECTION 1949. Arkansas Code § 6–60–903(a)(2), concerning compliance by institutions of higher education regarding providing required data, is amended to read as follows:

<< AR ST § 6–60–903 >>

(2) Published from time to time by the ~~Department~~ **Division** of Higher Education.

SECTION 1950. The introductory language of Arkansas Code § 6–60–903(b), concerning compliance by institutions of higher education regarding providing required data, is amended to read as follows:

<< AR ST § 6–60–903 >>

(b) Within two (2) weeks of an institution of higher education's failure to comply with the requirements for submission of data published by the ~~department~~ **division**, the ~~department~~ **division** shall report to the Legislative Council:

SECTION 1951. Arkansas Code § 6–61–105(b), concerning the requirement of a course in American history or civil government, is amended to read as follows:

<< AR ST § 6–61–105 >>

(b) The ~~Department~~ **Division** of Higher Education shall see to the strict carrying out of this section and may take such steps and measures as may be necessary to effectuate its provisions.

SECTION 1952. Arkansas Code § 6–61–112(f)(2), concerning a student or student's spouse being called into military service, is amended to read as follows:

<< AR ST § 6–61–112 >>

(2) The ~~Department~~ **Division** of Higher Education shall adopt the necessary rules to ensure that state-supported scholarship, grant, and loan programs comply with the provisions of this section.

SECTION 1953. Arkansas Code § 6–61–112(g), concerning a student or student's spouse being called into military service, is amended to read as follows:

<< AR ST § 6–61–112 >>

(g)(1) For each fiscal year, each state-supported institution of higher education in the state shall report the type and amount of compensatory options provided under this section to the ~~department~~ **division**.

(2) The ~~department~~ **division** shall report to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth regarding the type and amount of compensatory options provided under this section by each state-supported institution of higher education no later than October 1 of each year beginning in 2006 and each year thereafter.

SECTION 1954. The introductory language of Arkansas Code § 6–61–124(b)(1), concerning the reporting of minority students who complete an education program, is amended to read as follows:

<< AR ST § 6–61–124 >>

(b)(1) All state-supported colleges and universities in Arkansas shall report to the ~~Department of Education~~ **Division of Elementary and Secondary Education** as soon as possible after each semester a list of each minority student who:

SECTION 1955. Arkansas Code § 6–61–124(b)(1)(B), concerning the reporting of minority students who complete an education program, is amended to read as follows:

<< AR ST § 6–61–124 >>

(B) Has signed a consent form authorizing the college or university to report such information to the ~~department~~ **division**.

SECTION 1956. Arkansas Code § 6-61-124(c)(1), concerning the reporting of minority students who complete an education program, is amended to read as follows:

<< AR ST § 6-61-124 >>

(c)(1) The ~~department~~ **division** shall maintain a database based upon the reports provided by each college and university under subsection (b) of this section.

SECTION 1957. Arkansas Code § 6-61-127(a)(1), concerning the creation of the Arkansas Higher Education Performance Reporting System, is amended to read as follows:

<< AR ST § 6-61-127 >>

(a)(1) The ~~Department~~ **Division** of Higher Education, in consultation with the institutions of higher education, shall develop an Arkansas Higher Education Performance Reporting System.

SECTION 1958. Arkansas Code § 6-61-127(b) and (c), concerning the creation of the Arkansas Higher Education Performance Reporting System, are amended to read as follows:

<< AR ST § 6-61-127 >>

(b) To the extent possible, the Arkansas Higher Education Performance Reporting System will utilize information from an accrediting agency recognized by the United States Department of Education's assessment outcomes measures which are required for reaffirmation of accreditation, federal Integrated Postsecondary Education Data System report data, and data collected annually through the ~~Department~~ **Division** of Higher Education's Statewide Information System.

(c) In developing the Arkansas Higher Education Performance Reporting System, the ~~Department~~ **Division** of Higher Education will review and analyze higher education performance reporting systems used in other states to incorporate the best aspects of those plans.

SECTION 1959. Arkansas Code § 6-61-129(c)(2)(A), concerning the creation of centers of excellence, is amended to read as follows:

<< AR ST § 6-61-129 >>

(2)(A) Institutions of higher education may submit proposals to the ~~Department~~ **Division** of Higher Education to become centers of excellence.

SECTION 1960. Arkansas Code § 6-61-129(d)(1), concerning the creation of centers of excellence, is amended to read as follows:

<< AR ST § 6-61-129 >>

(d)(1) Two (2) representatives of the ~~Department~~ **Division** of Higher Education as designated by the Director of the ~~Department~~ **Division** of Higher Education, and one (1) representative of the Arkansas Economic Development Commission shall meet as needed to review applications jointly.

SECTION 1961. The introductory language of Arkansas Code § 6-61-129(d)(2), concerning the creation of centers of excellence, is amended to read as follows:

<< AR ST § 6-61-129 >>

(2) The ~~Department~~ **Division** of Higher Education and the Arkansas Economic Development Commission shall jointly make a recommendation to the board regarding which institutions shall be acknowledged as centers of excellence in a particular program or field of study based on factors, including, but not limited to:

SECTION 1962. Arkansas Code § 6-61-131(b)(2)(A), concerning student accounts receivable policies at two-year institutions of higher education, is amended to read as follows:

<< AR ST § 6-61-131 >>

(2)(A) Review its policies and practices to ensure its compliance with census reporting guidelines promulgated by the ~~Department~~ **Division** of Higher Education.

SECTION 1963. Arkansas Code § 6-61-131(c)(3), concerning student accounts receivable policies at two-year institutions of higher education, is amended to read as follows:

<< AR ST § 6-61-131 >>

(3) Filed with the ~~department~~ **division** no later than thirty (30) days after the adoption of the policy.

SECTION 1964. Arkansas Code § 6-61-133(b), concerning professional development for mandated reporters and licensed elementary and secondary public school personnel, is amended to read as follows:

<< AR ST § 6-61-133 >>

(b) For each degree program at an institution of higher education in this state that is a prerequisite for licensure or certification in a profession in which the professional is a child maltreatment mandated reporter under the Child Maltreatment Act, § 12-18-101 et seq., the ~~Department~~ **Division** of Higher Education shall coordinate with all the institutions of higher education to ensure that before receiving a degree, each graduate receives the professional development identified in subdivision (d)(1) of this section.

SECTION 1965. Arkansas Code § 6-61-134(a)(3)(B), concerning a mathematics requirement for an associate of applied science degree, is amended to read as follows:

<< AR ST § 6-61-134 >>

(B) ~~Department~~ **Division** of Higher Education.

SECTION 1966. 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:

<< AR ST § 6-61-137 >>

(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 1967. Arkansas Code § 6-61-203 is amended to read as follows:

<< AR ST § 6-61-203 >>

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 it to carry out adequately the programs and functions assigned to the ~~Department~~ **Division** of Higher Education.

(e) The central office of the ~~department~~ **division** shall be maintained in Little Rock.

(f)(1) The board shall evaluate the director annually.

(2) The council shall provide an evaluation report of the ~~department~~ **division** and the director to the board at least annually.

SECTION 1968. Arkansas Code § 6-61-204(d)(3), concerning advisory committees and councils, is amended to read as follows:

<< AR ST § 6-61-204 >>

(3) The ~~Department~~ **Division** of Higher Education employees shall staff each committee.

SECTION 1969. Arkansas Code § 6–61–207(b) and (c), concerning role and scope designations of the Arkansas Higher Education Coordinating Board, is amended to read as follows:

<< AR ST § 6–61–207 >>

(b) To assist the board and the ~~Department~~ **Division** of Higher Education in their effort to promote a coordinated system of higher education in Arkansas that addresses and responds to the changing economic needs of the state and the new economy, the Arkansas Economic Development Commission shall provide the ~~Department of Higher Education~~ **division** a list of the state's overall and regional economic development goals within ten (10) days of August 12, 2005, and by September 1 of each year thereafter.

(c)(1) The ~~Department of Higher Education~~ **division** may retain the services of consultants or other experts as may be necessary to carry out the review, and the ~~Department of Higher Education~~ **division** staff shall work directly with the consultants to handle the logistics of needed discussion groups, meeting minutes, and recommendation dissemination.

(2) The review process shall include an opportunity for institutions to provide input, as well as a time for public and business comment.

(3) Upon completion of the review, the ~~Department of Higher Education~~ **division** shall provide a report regarding its findings to the board, the Governor, the cochairs of the Legislative Council, and the Director of the Bureau of Legislative Research.

(4) The requirements for a review under this section shall be contingent upon the appropriation and availability of funding for that purpose.

SECTION 1970. Arkansas Code § 6–61–215 is amended to read as follows:

<< AR ST § 6–61–215 >>

6–61–215. Student tuition and fees — Reporting.

Annually, by July 1, the ~~Department~~ **Division** of Higher Education shall report the tuition and mandatory fees charged to students, including all changes to tuition and mandatory fees, for each state-supported institution of higher education to the House Committee on Education and the Senate Committee on Education.

SECTION 1971. Arkansas Code § 6–61–220(b) and (c), concerning retention and graduation rate information, are amended to read as follows:

<< AR ST § 6–61–220 >>

(b)(1)(A) The ~~Department~~ **Division** of Higher Education, in consultation with the colleges and universities, shall recommend a system for the collection of information as to the retention and graduation rates of students at state-supported colleges and universities to the board, the Governor, the House Committee on Education, the Senate Committee on Education, and the colleges and universities.

(B) In addition to retention and graduation rates for all students, the report shall also include the retention and graduation rates of all students who participate in intercollegiate athletics.

(2) Except as provided in subsection (c) of this section, officials of state colleges and universities shall provide to the ~~department~~ **division** the information requested by the ~~department~~ **division** by December 1 of each year, beginning in 2000.

(3)(A) For the purpose of analysis by the Bureau of Legislative Research to guide the General Assembly's evaluation of the need for adjustments to eligibility and funding levels for state-supported student financial assistance, the Office of Accountability of the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide annually to the bureau all individual student demographic and test result data on ACT or ACT equivalent college placement exams.

(B) The office shall provide the data in a database or spreadsheet format that omits personally identifiable information.

(c)(1) Subject to an adequate appropriation for the personnel and equipment necessary to implement the system recommended under subdivision (b)(1) of this section, the ~~department~~ **division** shall collect the information described in subdivision (b)(1) of this section and report its findings to the board, the Governor, the committees, and the colleges and universities by May 1 of each year, beginning in 2000.

(2) Notwithstanding the provisions of subdivision (c)(1) of this section, colleges and universities shall commence the collection of information as to the retention and graduation rates of all students who participate in intercollegiate athletics beginning in the fall semester of 1989 and shall report this information to the ~~department~~ **division** by December 1 of each year, beginning in 2000.

SECTION 1972. Arkansas Code § 6-61-221 is amended to read as follows:

<< AR ST § 6-61-221 >>

6-61-221. Reporting of graduates requiring postsecondary remediation.

(a)(1) The ~~Department~~ **Division** of Higher Education shall collect information necessary to prepare reports of college achievement of high school graduates from each state-supported institution of higher education.

(2) The ~~Department~~ **Division** of Higher Education may contract with appropriate organizations for the preparation of the reports.

(b) The ~~Department~~ **Division** of Higher Education and the Office of Accountability of the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall work together to develop a compatible system of reporting the number of:

(1) Students who required remediation during their first year of enrollment in a state-supported institution of higher education if the enrollment occurred within two (2) years of graduation from a secondary school in this state;

(2) Students who required remediation and who graduated:

(A) With a 3.0 or higher grade point average on a 4.0 scale; and

(B) From a public high school after completing the:

(i) Program of the minimum core of high school courses recommended for preparation for postsecondary education by the Arkansas Higher Education Coordinating Board and the State Board of Education pursuant to § 6-61-217 known as Smart Core; or

(ii) Non-Smart Core curriculum; and

(3) Attempts it takes a student to pass a postsecondary remedial course, beginning in the 2011-2012 school year.

(c)(1) The compilation report generated by the ~~Department~~ **Division** of Higher Education shall not include individual student information if the information is reported in a manner that would identify a particular student.

(2) Any information gathered that identifies a particular student shall be confidential.

(d)(1) The ~~Department~~ **Division** of Higher Education shall include the reports developed under this section annually in the Comprehensive Arkansas Higher Education Annual Report and provide an electronic copy to the:

(A) ~~Department of Education~~ **Division of Elementary and Secondary Education**;

(B) ~~Department~~ **Division** of Career **and Technical** Education;

(C) Arkansas Higher Education Coordinating Board;

(D) Governor;

(E) House Committee on Education;

(F) Senate Committee on Education;

(G) State Board of Education; and

(H) School district administrators for each public high school.

(2) The reports developed under this section shall be prepared on or before October 1 each year and include the cost of remediation for each state-supported institution of higher education, which shall be submitted to the ~~Department~~ **Division** of Higher Education according to standards developed by the ~~Department~~ **Division** of Higher Education and shall include for each state-supported institution of higher education:

(A) The amount of institutional revenue spent on remediation;

(B) The total general revenue subsidy spent on remediation;

(C) The total institutional expenditure for remediation; and

(D) The general revenue percentage of total expenditures for remediation.

(3) The report required under this subsection shall be separate from the uniform reporting standards report required under § 6-61-222.

SECTION 1973. Arkansas Code § 6-61-222(a)(3)(B), concerning uniform reporting standards, is amended to read as follows:

<< AR ST § 6-61-222 >>

(B) “Academic program” means any program of study leading to a degree or certificate and any other program as defined by the ~~Department~~ **Division** of Higher Education;

SECTION 1974. Arkansas Code § 6-61-226(b)(1)(A), concerning guidelines for course review, is amended to read as follows:

<< AR ST § 6-61-226 >>

(b)(1)(A) The Department **Division** of Higher Education shall establish peer review project teams composed of faculty members of Arkansas universities and two-year colleges.

SECTION 1975. Arkansas Code § 6-61-226(b)(2)(A), concerning guidelines for course review, is amended to read as follows:

<< AR ST § 6-61-226 >>

(2)(A) The peer review project team for each discipline shall review and recommend to the department **division** courses in the applicable discipline to be recommended to the board for inclusion in the curriculum.

SECTION 1976. Arkansas Code § 6-61-227 is amended to read as follows:

<< AR ST § 6-61-227 >>

6-61-227. Annual transfer credit report.

All public institutions of higher education and any participating private institutions of higher education shall file a report annually with the Department **Division** of Higher Education identifying the number of students who requested transfer credit for a completed course in the state minimum core curriculum but were not given credit.

SECTION 1977. The introductory language of Arkansas Code § 6-61-231(d)(1)(C)(i), concerning statewide transfer agreements, is amended to read as follows:

<< AR ST § 6-61-231 >>

(C)(i) Policies and procedures for the Department **Division** of Higher Education to collect data from public institutions of higher education to ensure that:

SECTION 1978. Arkansas Code § 6-61-231(d)(1)(C)(ii), concerning statewide transfer agreements, is amended to read as follows:

<< AR ST § 6-61-231 >>

(ii) The department **division** shall determine annually the data to be collected and shall establish by rule the procedures for a public institution of higher education to provide the data requested.

SECTION 1979. Arkansas Code § 6-61-234(a)(1)(A), concerning the productivity-based funding model for state-supported institutions of higher education, is amended to read as follows:

<< AR ST § 6-61-234 >>

(a)(1)(A) The Arkansas Higher Education Coordinating Board shall adopt policies developed by the ~~Department~~ **Division** of Higher Education necessary to implement a productivity-based funding model for state-supported institutions of higher education.

SECTION 1980. Arkansas Code § 6-61-234(d)-(f), concerning the productivity-based funding model for state-supported institutions of higher education, are amended to read as follows:

<< AR ST § 6-61-234 >>

(d) Funds unallocated to state-supported institutions of higher education due to productivity declines shall be reserved by the ~~department~~ **division** to address statewide needs in higher education.

(e) The ~~department~~ **division** shall review the policies every five (5) years to ensure the productivity-based funding model continues to respond to the needs and priorities of the state.

(f) In any fiscal year for which the aggregate general revenue funding forecast to be available for state-supported institutions of higher education is greater than two percent (2%) less than the amount provided for the immediate previous fiscal year, the ~~department~~ **division** shall not further implement the productivity-based funding model until the following fiscal year.

SECTION 1981. Arkansas Code § 6-61-301(a)(3), concerning incorporation of laws from the Arkansas Higher Education Coordinating Board, is amended to read as follows:

<< AR ST § 6-61-301 >>

(3) Nonpublic, not-for-profit colleges and universities currently incorporated, recognized by the Arkansas Higher Education Coordinating Board as Arkansas independent institutions of higher education, and operating under the applicable laws of this state shall not be required to receive certification from the Arkansas Higher Education Coordinating Board or to receive licensure from the ~~Department~~ **Division** of Higher Education under § 6-51-601 et seq.

SECTION 1982. Arkansas Code § 6-61-302(b)(4), concerning incorporation and certification advisory committee to the Arkansas Higher Education Coordinating Board, is amended to read as follows:

<< AR ST § 6-61-302 >>

(4) The Director of the ~~Department~~ **Division** of Career **and Technical** Education or his or her designated representative; and

SECTION 1983. Arkansas Code § 6-61-304 is amended to read as follows:

<< AR ST § 6-61-304 >>

6-61-304. Review of existing programs of higher education.

In order to provide for the orderly development, coordination, financing, and expansion of the higher education program of this state, the ~~Department~~ **Division** of Higher Education shall review the existing programs of higher education in this state and assist in the orderly development and expansion of higher education in this state in accordance with the procedures outlined in §§ 6-61-101 — 6-61-103, 6-61-201 — 6-61-209, 6-61-211 [repealed], 6-61-212 — 6-61-216, 6-

61-301 — 6-61-305, 6-61-306 [repealed], 6-61-401, 6-61-402, 6-61-501 — 6-61-524, 6-61-601 — 6-61-603 and 6-61-604 — 6-61-612 [repealed].

SECTION 1984. Arkansas Code § 6-61-305 is amended to read as follows:

<< AR ST § 6-61-305 >>

6-61-305. Encouragement of participation by private institutions.

The ~~Department~~ **Division** of Higher Education staff and the Arkansas Higher Education Coordinating Board shall invite and encourage the participation of private colleges and universities, proprietary schools, and all other postsecondary institutions in Arkansas in planning for the programs of education beyond high school.

SECTION 1985. Arkansas Code § 6-61-401(a), concerning the State Student Incentive Grant Program, is amended to read as follows:

<< AR ST § 6-61-401 >>

(a) The ~~Department~~ **Division** of Higher Education, in accordance with policy established by the Arkansas Higher Education Coordinating Board, shall administer the federal State Student Incentive Grant Program.

SECTION 1986. Arkansas Code § 6-61-402(c), concerning contracts and cooperation with the Southern Regional Education Board, is amended to read as follows:

<< AR ST § 6-61-402 >>

(c) The ~~Department~~ **Division** of Higher Education staff, at the direction of the Arkansas Higher Education Coordinating Board, is empowered to conduct necessary administrative duties in connection with this program.

SECTION 1987. Arkansas Code § 6-61-504 is amended to read as follows:

<< AR ST § 6-61-504 >>

6-61-504. Division of Community Junior Colleges created.

The Director of the ~~Department~~ **Division** of Higher Education shall establish a separate Division of Community Junior Colleges within the ~~Department~~ **Division** of Higher Education.

SECTION 1988. Arkansas Code § 6-61-505(b), concerning the State Community College Board, is amended to read as follows:

<< AR ST § 6-61-505 >>

(b) When the ~~board~~ **Arkansas Higher Education Coordinating Board** is acting as the State Community College Board, the Director of the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall be an ex officio nonvoting member of that ~~board~~ **Arkansas Higher Education Coordinating Board**.

SECTION 1989. Arkansas Code § 6-61-803 is amended to read as follows:

<< AR ST § 6-61-803 >>

6-61-803. Arkansas Research Development Program created — Administration.

There is created a program to be known as the Arkansas Research Development Program which shall be administered by the Director of the ~~Department~~ **Division** of Higher Education.

SECTION 1990. Arkansas Code § 6-61-808(b)(1), concerning applications for funds for the Arkansas Research Development Program, is amended to read as follows:

<< AR ST § 6-61-808 >>

(b)(1) The Director of the ~~Department~~ **Division** of Higher Education shall review the applications and shall approve applications in the amount he or she determines appropriate, after seeking the advice of the Legislative Council.

SECTION 1991. Arkansas Code § 6-61-901 is amended to read as follows:

<< AR ST § 6-61-901 >>

6-61-901. Purpose.

In order to enhance the public's access to performance indicators and to better measure the dividends paid on the increasing public investment in Arkansas's institutions of higher education, the General Assembly finds that a separate office of accountability should be established within the ~~Department~~ **Division** of Higher Education.

SECTION 1992. Arkansas Code § 6-61-902 is amended to read as follows:

<< AR ST § 6-61-902 >>

6-61-902. Office of Accountability within ~~Department~~ Division of Higher Education.

- (a) There is created the Office of Accountability within the ~~Department~~ **Division** of Higher Education.
- (b) The office is authorized and directed to collect and analyze information that may be required to meet any state or federal requirement.
- (c) Under the direction of the Director of the ~~Department~~ **Division** of Higher Education, the staff of the office shall work cooperatively with and provide any necessary assistance to the House Committee on Education and the Senate Committee on Education.

SECTION 1993. Arkansas Code § 6-61-1303(4)(C), concerning the definition of “full-time student” under the Productivity Enhancement for Undergraduate Higher Education Act, is amended to read as follows:

<< AR ST § 6-61-1303 >>

- (C) Is enrolled in at least twelve (12) semester hours or some other reasonable academic equivalent as defined by the ~~Department~~ **Division** of Higher Education;

SECTION 1994. Arkansas Code § 6–61–1403(a), concerning additions or alterations to the common course numbering system, is amended to read as follows:

<< AR ST § 6–61–1403 >>

(a) The Director of the ~~Department~~ **Division** of Higher Education shall recommend to the Arkansas Higher Education Coordinating Board any additions or alterations to the common course numbering system.

SECTION 1995. Arkansas Code § 6–61–1406 is amended to read as follows:

<< AR ST § 6–61–1406 >>

6–61–1406. Courses review.

The ~~Department~~ **Division** of Higher Education shall:

- (1) Regularly schedule reviews of courses that are listed in the common course numbering system;
- (2) Establish review procedures; and
- (3) Adopt policies to carry out this section.

SECTION 1996. Arkansas Code § 6–61–1407 is amended to read as follows:

<< AR ST § 6–61–1407 >>

6–61–1407. Data collection.

(a) The ~~Department~~ **Division** of Higher Education shall adopt policies for the collection of data to ensure that all institutions of higher education that participate in the common course numbering system comply with this subchapter.

(b) The ~~department~~ **division** shall determine the data to be collected and annually notify each participating institution of higher education in a timely manner.

SECTION 1997. Arkansas Code § 6–61–1602(b), concerning the creation and purpose of the Institutional Energy Research Committee, is amended to read as follows:

<< AR ST § 6–61–1602 >>

(b) The ~~Department~~ **Division** of Higher Education, in collaboration with state-supported institutions of higher education that participate in energy research activities, shall appoint at least one (1) member of the research faculty at each state-supported institution of higher education that participates in energy research activities to serve on the Institutional Energy Research Committee.

SECTION 1998. Arkansas Code § 6–62–105(a)(1), concerning private borrowing by institutions of higher education, is amended to read as follows:

<< AR ST § 6–62–105 >>

(a)(1) Upon approval of the board of trustees of a state-supported institution of higher education, the ~~Department~~ **Division** of Higher Education, and the Chief Fiscal Officer of the State, a state-supported institution of higher education

may borrow funds determined by the board to be necessary to continue the operation of the state-supported institution of higher education from a private financial institution if the Revolving Loan Fund is insufficient, as certified by the Chief Fiscal Officer of the State, for a state-supported institution of higher education to participate in the fund.

SECTION 1999. The introductory language of Arkansas Code § 6-62-105(c)(1), concerning private borrowing by institutions of higher education, is amended to read as follows:

<< AR ST § 6-62-105 >>

(c)(1) Notwithstanding subsections (a) and (b) of this section or § 19-4-705, the Chief Fiscal Officer of the State and the Director of the ~~Department~~ **Division** of Higher Education may authorize a state-supported institution of higher education to borrow funds from a private financial institution provided that the board certifies that borrowing funds from a private financial institution:

SECTION 2000. Arkansas Code § 6-62-726(a), concerning the rules and regulations for the Department of Higher Education appropriation for college savings bonds, is amended to read as follows:

<< AR ST § 6-62-726 >>

(a) The ~~Department~~ **Division** of Higher Education or other agency to which the appropriation for college savings bonds is provided shall adopt rules and regulations for the allocation of the funds reappropriated for the development of projects at state institutions of higher education and the payment of project costs and expenses of the issuance of the bonds under this subchapter in order to ensure that funds are allocated and expended in a manner consistent with the applicable provisions of the Internal Revenue Code, 26 U.S.C. § 1 et seq.

SECTION 2001. Arkansas Code § 6-62-803(a) and (b), concerning limits on the funding amount to be budgeted of unrestricted educational and general funds for intercollegiate athletic programs at state-supported institutions of higher education, is amended to read as follows:

<< AR ST § 6-62-803 >>

(a) For the certification required under § 6-62-805, the amount allowed to be budgeted of unrestricted educational and general funds for intercollegiate athletic programs at state-supported institutions of higher education shall be limited to an amount established by the ~~Department~~ **Division** of Higher Education for the fiscal year 2012-2013 or an amount of not more than two percent (2%) of the actual total unrestricted educational and general revenues of the previous fiscal year at institutions of higher education.

(b) The ~~department~~ **division** shall annually adjust the allowable transfer based upon the Consumer Price Index.

SECTION 2002. Arkansas Code § 6-63-103(c), concerning affirmative action programs, plans, and annual reports, is amended to read as follows:

<< AR ST § 6-63-103 >>

(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 2003. Arkansas Code § 6-63-104(a), concerning faculty performance reviews, is amended to read as follows:

<< AR ST § 6-63-104 >>

(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 2004. Arkansas Code § 6-63-104(d), concerning faculty performance reviews, is amended to read as follows:

<< AR ST § 6-63-104 >>

(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 2005. Arkansas Code § 6-63-305(a)(1)(A) and (B), concerning new or additional positions for institutions of higher education, are amended to read as follows:

<< AR ST § 6-63-305 >>

(A) A request for a specific nonclassified position, title, and salary has been requested by the institution of higher education, approved by the institution's board of trustees, recommended by the ~~Department~~ **Division** of Higher Education, and reported to the Legislative Council; or

(B) A request for a specific classified position will be assigned only after a specific position, class title, and grade are requested by the institution of higher education, approved by the institution's board, recommended by the ~~department~~ **division** and reported to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee; and

SECTION 2006. Arkansas Code § 6-63-305(a)(3), concerning new or additional positions for institutions of higher education, are amended to read as follows:

<< AR ST § 6-63-305 >>

(3) The source of funding for the additional positions established under this subsection shall be reported to the ~~department~~ **division** and the Legislative Council by the institution at the time of the request.

SECTION 2007. Arkansas Code § 6-63-307(a), concerning salary restrictions and penalties of institutes of higher education, is amended to read as follows:

<< AR ST § 6-63-307 >>

(a) An employee drawing a salary or other form of compensation from an institution of higher education shall not be paid an additional salary or receive additional compensation other than reimbursement for actual expenses from that institution or from any other agency or institution of higher education except upon written certification to and approval by the Director of the ~~Department~~ **Division** of Higher Education and by the head of each agency or institution that the work performed by the employee for the other agency or institution of higher education does not interfere with the proper and required performance of the employee's primary duties and that the combined salary payments from both agencies or institutions of higher education will not exceed the larger maximum annual salary of the line item position authorized for either agency from which the employee is to be paid.

SECTION 2008. Arkansas Code § 6-63-311(a)(3), concerning special authorization and contracts for the National Center for Toxicological Research, is amended to read as follows:

<< AR ST § 6-63-311 >>

(3) The ~~Department~~ **Division** of Higher Education will be notified of when and in what amount the special allowance will be paid prior to activation of the special allowance.

SECTION 2009. Arkansas Code § 6-63-312 is amended to read as follows:

<< AR ST § 6-63-312 >>

6-63-312. Contingency appropriations — Transfers and reports.

(a) Upon approval by the ~~Department~~ **Division** of Higher Education and the Chief Fiscal Officer of the State, institutions of higher education may transfer appropriation from the cash contingency appropriation to any other appropriation made to the institution from cash funds and institutions may transfer appropriation from the contingency appropriation made payable from each institution's State Treasury Fund to the state operations appropriation made payable from each institution's State Treasury Fund.

(b) The ~~department~~ **division** shall report monthly to the Legislative Council these appropriation transfers, and the report shall include, by institution, the amounts transferred, the reasons therefor, and the source of the funds.

SECTION 2010. Arkansas Code § 6-63-316(b), concerning reporting of salaries of administrators of state-supported institution of higher education, is amended to read as follows:

<< AR ST § 6-63-316 >>

(b)(1) A state-supported institution of higher education shall submit a report listing each administrator at the state-supported institution of higher education who earns a salary of one hundred thousand dollars (\$100,000) or more to the Arkansas Higher Education Coordinating Board and the ~~Department~~ **Division** of Higher Education by July 1 each year, beginning July 1, 2010.

(2) The report shall be posted on the ~~department~~ **division** website no later than July 15 each year, beginning July 15, 2010.

SECTION 2011. Arkansas Code § 6-65-104(b)(2), concerning rural school teachers' training department, is amended to read as follows:

<< AR ST § 6-65-104 >>

(2) These courses shall be outlined by a committee consisting of the principal of each of the agricultural schools, the President of the University of Central Arkansas, and the Director of the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Director of the ~~Department~~ **Division** of Career **and Technical** Education.

SECTION 2012. Arkansas Code § 6-66-113(b), concerning the report by the Board of Trustees of Henderson State University, is amended to read as follows:

<< AR ST § 6-66-113 >>

(b) The report shall be incorporated in the report of the Director of the ~~Department of Education~~ **Division of Elementary and Secondary Education** and shall set forth the financial and scholastic condition of Henderson State University, furnish such suggestions as in the judgment of the board are necessary for the improvement of the university, and make any further recommendations that may to the board seem wise and expedient.

SECTION 2013. Arkansas Code § 6-67-114(b), concerning the biennial report to the General Assembly of the Board of Trustees of the University of Central Arkansas, is amended to read as follows:

<< AR ST § 6-67-114 >>

(b) The report shall be incorporated in the report of the Director of the ~~Department of Education~~ **Division of Elementary and Secondary Education** and shall set forth the financial and scholastic condition of the University of Central Arkansas, furnish such suggestions as in the board's judgment are necessary for the improvement of the university, and shall make any further recommendations that may seem wise and expedient to the board.

SECTION 2014. Arkansas Code § 6-68-102(4), concerning an electronic version of printed instructional material, is amended to read as follows:

<< AR ST § 6-68-102 >>

(4) Is signed by the coordinator of services for students with disabilities at the institution of higher education and by an official responsible for monitoring compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. At the request of the institution of higher education, the Division of State Services for the Blind of the Department of Human Services or the ~~Department~~ **Division** of Career **and Technical** Education may prepare and sign the certification.

SECTION 2015. Arkansas Code § 6-80-102(a), concerning compliance with the Selective Service Act, is amended to read as follows:

<< AR ST § 6-80-102 >>

(a) "Institution of higher education" has the meaning assigned by the ~~Department~~ **Division** of Higher Education.

SECTION 2016. Arkansas Code § 6–80–102(d), concerning compliance with the Selective Service Act, is amended to read as follows:

<< AR ST § 6–80–102 >>

(d) The ~~department~~ **division** shall specify by rule the form of statements of selective service status and the supporting documents to be filed to be in compliance with this section. The ~~department~~ **division** shall distribute to each institution of higher education a copy of all rules adopted under this section.

SECTION 2017. Arkansas Code § 6–80–105(a)(1), concerning scholarship stacking and student financial aid, is amended to read as follows:

<< AR ST § 6–80–105 >>

(1) “Cost of attendance” means the recognized cost of attendance of an institution of higher education calculated under rules established by the ~~Department~~ **Division** of Higher Education;

SECTION 2018. Arkansas Code § 6–80–105(a)(4), concerning scholarship stacking and student financial aid, is amended to read as follows:

<< AR ST § 6–80–105 >>

(4) “State aid” means scholarships or grants awarded to a student from public funds, including without limitation the Arkansas Academic Challenge Scholarship under § 6–85–201 et seq., the ~~Department~~ **Division** of Higher Education scholarship and grant programs, state general revenues, tuition, and local tax revenue; and

SECTION 2019. Arkansas Code § 6–80–105(c), concerning scholarship stacking and student financial aid, is amended to read as follows:

<< AR ST § 6–80–105 >>

(c) A postsecondary institution shall report to the ~~department~~ **division** the total amount of federal aid, state aid, and other aid a student receives if the student receives an award from a ~~department~~ **division** scholarship or grant program, including the Arkansas Academic Challenge Scholarship under § 6–85–201 et seq.

SECTION 2020. Arkansas Code § 6–80–105(d)(2), concerning scholarship stacking and student financial aid, is amended to read as follows:

<< AR ST § 6–80–105 >>

(2) The ~~department~~ **division** shall credit the excess state aid funds to the appropriate ~~department~~ **division** fund or trust account.

SECTION 2021. Arkansas Code § 6–80–105(e)(1), concerning scholarship stacking and student financial aid, is amended to read as follows:

<< AR ST § 6–80–105 >>

- (1) The department **division** if the department **division** awards state aid to the student; and

SECTION 2022. Arkansas Code § 6-80-107 is amended to read as follows:

<< AR ST § 6-80-107 >>

6-80-107. Transcripts.

(a)(1) As used in this section, “electronic transcript” means a student transcript that is formatted and transmitted electronically in the uniform method prescribed by the Department **Division** of Higher Education and the Department of Education **Division of Elementary and Secondary Education** for use by public schools and institutions of higher education in this state.

- (2) An Arkansas public school shall use an electronic transcript in lieu of a paper transcript to:

(A) Provide to the Department **Division** of Higher Education as necessary to process state financial aid applications for students in grades nine through twelve (9-12);

(B) Transmit a transcript between public high schools to correctly enroll and place students in grades nine through twelve (9-12) transferring between public high schools and school districts; and

(C) Transmit a transcript to the Department of Education **Division of Elementary and Secondary Education**.

- (3) An institution of higher education in this state shall use an electronic transcript in lieu of a paper transcript:

(A) As the only method of accepting a transcript from an Arkansas public school;

(B) As the only method of accepting a transcript from or sending a transcript to another institution of higher education in this state;

(C) To provide to the Department **Division** of Higher Education as necessary to process state financial aid applications for higher education students; and

(D) To transmit a transcript to the Department of Education **Division of Elementary and Secondary Education**.

(b)(1) Except as provided under subdivision (b)(2) of this section, an institution of higher education that does not comply with this section shall not receive state financial aid on behalf of students.

(2) An institution of higher education with less than ten (10) students who receive financial aid from a program administered by the Department **Division** of Higher Education is exempt from the requirements under subsection (a) of this section and the penalty under this subsection.

(c)(1) The Department of Education **Division of Elementary and Secondary Education** shall prescribe a uniform method of formatting and electronically transmitting transcripts, which shall be used by all kindergarten through grade eight (K-8) public elementary or middle schools in this state.

- (2) A public elementary or middle school shall use an electronic transcript in lieu of a paper transcript to transmit a transcript:

(A) Between public schools as necessary to correctly enroll and place students transferring between schools and school districts; and

(B) To the Department of Education **Division of Elementary and Secondary Education**.

SECTION 2023. Arkansas Code § 6-81-603 is amended to read as follows:

<< AR ST § 6-81-603 >>

6-81-603. Administration.

(a) The Teacher Opportunity Program shall be administered by the ~~Department~~ **Division** of Higher Education, which shall have the authority to establish necessary rules, regulations, procedures, and selection criteria for the administration of the program and to designate necessary forms and schedules.

(b) The ~~department~~ **division** may utilize an appropriate advisory committee to assist it in its responsibilities in this program.

SECTION 2024. Arkansas Code § 6-81-604 is amended to read as follows:

<< AR ST § 6-81-604 >>

6-81-604. Conditions.

The ~~Department~~ **Division** of Higher Education may make initial and continuing grants to students under the following conditions:

- (1) Grant recipients shall be bona fide residents of the State of Arkansas, as defined by the ~~Department~~ **Division** of Higher Education;
- (2) Grant recipients shall maintain current certification with the ~~Department of Education~~ **Division of Elementary and Secondary Education**, allowing them to be employed by the public schools in Arkansas;
- (3) Grant recipients shall be currently employed as teachers or administrators in Arkansas and declare an intention to continue that employment in Arkansas;
- (4) Grant recipients shall be enrolled in an eligible accredited college or university in Arkansas;
- (5) Grant recipients shall be enrolled in college-level courses directly related to their employment as certified by the Commissioner of **Elementary and Secondary** Education; and
- (6) Grant recipients shall maintain a grade point average in their college work of no less than 2.5 on a 4.0 scale or maintain an appropriate equivalent as determined by the ~~Department~~ **Division** of Higher Education.

SECTION 2025. Arkansas Code § 6-81-605(a)(2)(C), concerning the priority of grants under the Teacher Opportunity Program, is amended to read as follows:

<< AR ST § 6-81-605 >>

(C) All other requirements established by the ~~Department~~ **Division** of Higher Education are met.

SECTION 2026. Arkansas Code § 6-81-605(b), concerning the priority of grants under the Teacher Opportunity Program, is amended to read as follows:

<< AR ST § 6-81-605 >>

(b)(1) The ~~Department~~ **Division** of Higher Education shall determine priorities for awarding reimbursements if there are more applicants than funds available.

(2) Priorities shall be determined in coordination with the ~~Department of Education~~ **Division of Elementary and Secondary Education** and shall be based on the needs of the state.

SECTION 2027. The introductory language of Arkansas Code § 6-81-607(1), concerning the definition of “classroom teacher” under the Teacher Opportunity Program, is amended to read as follows:

<< AR ST § 6-81-607 >>

(1) “Classroom teacher” means an individual who is required to hold a teaching license from the ~~Department of Education~~ **Division of Elementary and Secondary Education** and who is:

SECTION 2028. Arkansas Code § 6-81-608(b), concerning the Dual Licensure Incentive Program, is amended to read as follows:

<< AR ST § 6-81-608 >>

(b) The program shall be administered by the ~~Department~~ **Division** of Higher Education.

SECTION 2029. Arkansas Code § 6-81-609(a)(1)(A)(i), concerning dual licensure funding, is amended to read as follows:

<< AR ST § 6-81-609 >>

(i) Declared to be a shortage area by the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 2030. Arkansas Code § 6-81-609(a)(1)(B)(ii), concerning dual licensure funding, is amended to read as follows:

<< AR ST § 6-81-609 >>

(ii) The amount of the reimbursement and the number of reimbursement recipients selected by the ~~Department~~ **Division** of Higher Education is contingent on the appropriation and availability of funding for such a purpose.

SECTION 2031. Arkansas Code § 6-81-609(a)(2)(B)(ii)(a), concerning dual licensure funding, is amended to read as follows:

<< AR ST § 6-81-609 >>

(a) Has been identified as a subject area with a shortage of classroom teachers as declared by the Department of Education **Division of Elementary and Secondary Education**; or

SECTION 2032. Arkansas Code § 6–81–1101(a) and (b), concerning tuition assistance for certain professional schools, is amended to read as follows:

<< AR ST § 6–81–1101 >>

(a) The Department **Division** of Higher Education shall institute a program of making grants for the benefit of Arkansas residents to assist in paying tuition for attending certain accredited schools of dentistry, optometry, veterinary medicine, podiatry, or chiropractic located outside the State of Arkansas but within the United States.

(b) In addition to the Southern Regional Education Compact program for which the Arkansas Higher Education Coordinating Board serves as agent for the state and for which the department **division** serves as disbursing agent pursuant to §§ 6–4–104 — 6–4–107, the Arkansas Higher Education Coordinating Board is authorized to enter into direct contracts with selected accredited schools of dentistry, optometry, veterinary medicine, podiatry, chiropractic, or osteopathy which do not participate in the program if the Arkansas Higher Education Coordinating Board determines that the needs of the state are not being met by institutions participating in the program.

SECTION 2033. Arkansas Code § 6–81–1101(c)(2)(E), concerning tuition assistance for certain professional schools, is amended to read as follows:

<< AR ST § 6–81–1101 >>

(E) Is a party to a currently effective written agreement between the participating institution and the department **division** or the Board of Control for Southern Regional Education **Southern Regional Education Board**; and

SECTION 2034. Arkansas Code § 6–81–1101(c)(3)(C), concerning tuition assistance for certain professional schools, is amended to read as follows:

<< AR ST § 6–81–1101 >>

(C) Has been certified under § 6–4–106 by the department **division** as qualified to participate in the grant program authorized by this section and consistent with § 6–4–106.

SECTION 2035. Arkansas Code § 6–81–1101(d)(2), concerning tuition assistance for certain professional schools, is amended to read as follows:

<< AR ST § 6–81–1101 >>

(2) For participating schools which charge the same amount of annual tuition for in-state and out-of-state students and such annual tuition is extraordinary as determined by the department **division**, the amount shall not be less than five thousand dollars (\$5,000) per student.

SECTION 2036. Arkansas Code § 6–81–1101(e), concerning tuition assistance for certain professional schools, is amended to read as follows:

<< AR ST § 6–81–1101 >>

(e)(1) The program shall be administered by the ~~department~~ **division**.

(2) The grants shall be made upon such terms and conditions as are prescribed by the ~~department~~ **division**.

(3) The ~~department~~ **division** shall promulgate such rules and regulations as are necessary to implement the provisions of this section.

SECTION 2037. Arkansas Code § 6–81–1101(f), concerning tuition assistance for certain professional schools, is amended to read as follows:

<< AR ST § 6–81–1101 >>

(f)(1) The ~~department~~ **division** will allocate, based upon funds appropriated, the number of eligible grant recipients to receive funds at each participating institution for each applicable academic period.

(2) Each participating institution will select eligible grant recipients for each applicable academic period. In the event that the number of eligible students accepted for enrollment at such participating institution exceeds the number of eligible grant recipients for whom funds have been allocated by the ~~department~~ **division** from funds appropriated, such participating institution shall have sole discretion in selecting the eligible students to designate as eligible grant recipients.

(3) The ~~department~~ **division** shall make grants according to the allocations made by the ~~department~~ **division** and selections made by the participating institutions. The ~~department~~ **division** shall have no obligation to make any grants except to the extent that funds have been appropriated and funded for the program.

SECTION 2038. Arkansas Code § 6–81–1103(a), concerning repayment of out-of-state tuition paid by the State of Arkansas, is amended to read as follows:

<< AR ST § 6–81–1103 >>

(a) The ~~Department~~ **Division** of Higher Education may provide loans from the Budget Stabilization Trust Fund in excess of the ~~Board of Control for Southern Regional Education~~ **Southern Regional Education Board** grant funds to dental students enrolled in professional programs outside the state for whom any part of the out-of-state tuition is paid by the State of Arkansas if the tuition paid to the out-of-state institution exceeds the board-contracted rate.

SECTION 2039. Arkansas Code § 6–81–1103(e)(3), concerning repayment of out-of-state tuition paid by the State of Arkansas, is amended to read as follows:

<< AR ST § 6–81–1103 >>

(3) Extraordinary circumstances as determined by the ~~department~~ **division**.

SECTION 2040. Arkansas Code § 6-81-1103(f), concerning repayment of out-of-state tuition paid by the State of Arkansas, is amended to read as follows:

<< AR ST § 6-81-1103 >>

(f) The loans shall be made at a rate of interest determined by the ~~department~~ **division** but not to exceed four percent (4%).

SECTION 2041. Arkansas Code § 6-81-1105(a)(6)(D), concerning veterinary medicine loans, is amended to read as follows:

<< AR ST § 6-81-1105 >>

(D) Has been certified under § 6-4-106 by the ~~Department~~ **Division** of Higher Education as qualified to participate in the loan repayment program authorized by this section and consistent with § 6-4-106.

SECTION 2042. The introductory language of Arkansas Code § 6-81-1105(b), concerning veterinary medicine loans, is amended to read as follows:

<< AR ST § 6-81-1105 >>

(b) The ~~department~~ **division** shall institute a loan repayment program to:

SECTION 2043. Arkansas Code § 6-81-1105(c)(1), concerning veterinary medicine loans, is amended to read as follows:

<< AR ST § 6-81-1105 >>

(c)(1) The ~~department~~ **division** shall administer the program.

SECTION 2044. Arkansas Code § 6-81-1105(c)(2)(A), concerning veterinary medicine loans, is amended to read as follows:

<< AR ST § 6-81-1105 >>

(2)(A) The ~~department~~ **division** shall adopt rules to implement this section and address the terms and conditions of loan repayments made under this section.

SECTION 2045. The introductory language of Arkansas Code § 6-81-1105(d), concerning veterinary medicine loans, is amended to read as follows:

<< AR ST § 6-81-1105 >>

(d) The ~~department~~ **division** shall:

SECTION 2046. Arkansas Code § 6-81-1105(d)(3), concerning veterinary medicine loans, is amended to read as follows:

<< AR ST § 6-81-1105 >>

(3)(A) Distribute loan repayments according to the allocations made by the ~~department~~ **division**.

(B) The ~~department~~ **division** shall not be obligated to make a loan repayment unless funds are appropriated.

SECTION 2047. The introductory language of Arkansas Code § 6-81-1106(b), concerning student loan repayment, is amended to read as follows:

<< AR ST § 6-81-1106 >>

(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 2048. Arkansas Code § 6-81-1106(d)(3), concerning student loan repayment, is amended to read as follows:

<< AR ST § 6-81-1106 >>

(3) Other period of postponement agreed to by the ~~department~~ **division**.

SECTION 2049. Arkansas Code § 6-81-1106(e), concerning student loan repayment, is amended to read as follows:

<< AR ST § 6-81-1106 >>

(e) The ~~department~~ **division** shall adopt rules to administer this section.

SECTION 2050. 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:

<< AR ST § 6-81-1301 >>

(a) There is established the University Assisted Teacher Recruitment and Retention Grant Program within the ~~Department~~ **Division** of Higher Education.

SECTION 2051. 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:

<< AR ST § 6-81-1301 >>

(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 of Elementary and Secondary Education**.

SECTION 2052. Arkansas Code § 6–81–1301(d)(1), concerning the administration and purpose of the University Assisted Teacher Recruitment and Retention Grant Program, is amended to read as follows:

<< AR ST § 6–81–1301 >>

(d)(1) The ~~Department~~ **Division** of Higher Education shall provide funds to participating institutions of higher learning for the purpose of awarding scholarships to qualified persons pursuing a Master of Education degree at participating institutions while rendering service to the state as a licensed teacher in a school district in a geographical area of the state where there exists a critical shortage of teachers, as approved by the State Board of Education.

SECTION 2053. Arkansas Code § 6–81–1301(h)(2), concerning the administration and purpose of the University Assisted Teacher Recruitment and Retention Grant Program, is amended to read as follows:

<< AR ST § 6–81–1301 >>

(2) The ~~Department~~ **Division** of Higher Education shall promulgate rules and regulations necessary for the administration of the relocation expense reimbursement component of the program.

SECTION 2054. Arkansas Code § 6–81–1301(l)(1), concerning the administration and purpose of the University Assisted Teacher Recruitment and Retention Grant Program, is amended to read as follows:

<< AR ST § 6–81–1301 >>

(l)(1)(A) Students receiving an award from the program shall execute a note made payable to the ~~Department~~ **Division** of Higher Education for an amount equal to the award each semester that shall bear interest at the rate of ten percent (10%) per year beginning September 1 after completion of the program or immediately after termination of the student's participation in the program, whichever is earlier.

(B) Students in the program who receive reimbursement for moving expenses under subsection (h) of this section shall execute a note made payable to the ~~Department of Education~~ **Division of Elementary and Secondary Education** for an amount equal to the reimbursement that shall bear interest at the rate of ten percent (10%) per year.

SECTION 2055. Arkansas Code § 6–81–1301(m)–(p), concerning the administration and purpose of the University Assisted Teacher Recruitment and Retention Grant Program, are amended to read as follows:

<< AR ST § 6–81–1301 >>

(m) All funds received by the ~~Department of Education~~ **Division of Elementary and Secondary Education** from the repayment of scholarship awards and relocation expenses by program participants shall be deposited in the fund that provides funding for the program.

(n) The ~~Department~~ **Division** of Higher Education shall promulgate rules and regulations necessary for the proper administration of the program.

(o) The requirements of this section are contingent on the funding available for the program.

(p) The ~~Department~~ **Division** of Higher Education is authorized to determine the necessary procedures for the awarding of grants should the number of eligible applicants and recipients exceed the funds available.

SECTION 2056. Arkansas Code § 6–81–1602 is amended to read as follows:

<< AR ST § 6–81–1602 >>

6–81–1602. Definitions.

As used in this subchapter:

(1) “Approved institution” means a state-supported institution of higher education, a nursing school, or a private nonprofit institution of higher education that:

(A) Maintains its Elementary headquarters in the state;

(B) Is eligible to receive Title IV federal student aid program funds; and

(C) Is approved by the ~~Department~~ **Division** of Higher Education as eligible to participate in the State Teacher Education Program;

(2) “Eligible student” means a student who:

(A) Meets the criteria set out in this subchapter; and

(B) Is found to be eligible by rules promulgated by the ~~Department~~ **Division** of Higher Education; and

(3) “Teacher education program” means a program administered by the ~~Department~~ **Division** of Higher Education that provides loan repayments to a licensed teacher who teaches in a subject area or a geographic area with teacher shortage as determined by the ~~Department~~ **Division** of Higher Education in consultation with the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 2057. Arkansas Code § 6–81–1604 is amended to read as follows:

<< AR ST § 6–81–1604 >>

6–81–1604. Administration of the program.

(a) The State Teacher Education Program shall be administered by the ~~Department~~ **Division** of Higher Education.

(b) The ~~department~~ **division** shall adopt standards for awarding the loan repayments to a public school teacher with an Arkansas teacher's license teaching in a:

(1) Subject area with a teacher shortage; or

(2) Geographic area with teacher shortage.

(c) The requirements of this subchapter are contingent on the funding available for the program.

(d) The ~~department~~ **division** may determine the necessary procedures for awarding the loan repayments if the number of eligible applicants and recipients exceeds available funding.

SECTION 2058. Arkansas Code § 6–81–1605 is amended to read as follows:

<< AR ST § 6–81–1605 >>

6-81-1605. Eligibility.

To be eligible for the State Teacher Education Program, an applicant shall:

- (1) Teach full-time at a public school district in a subject area or geographic area with a teacher shortage, as identified by the ~~Department~~ **Division** of Higher Education in consultation with the ~~Department of Education~~ **Division of Elementary and Secondary Education**;
- (2) Hold a valid Arkansas teacher's license; and
- (3) Meet additional continuing eligibility criteria established by the ~~Department~~ **Division** of Higher Education.

SECTION 2059. Arkansas Code § 6-81-1606 is amended to read as follows:

<< AR ST § 6-81-1606 >>

6-81-1606. Duration — Amount.

(a) The State Teacher Education Program shall be used to provide a loan repayment for federal student loans in the amount of:

(1) Three thousand dollars (\$3,000) per year for a maximum of three (3) years for a licensed teacher who graduated from a teacher education program after April 2004 and teaches in a public school in this state:

(A) In a subject area designated by the ~~Department~~ **Division** of Higher Education in consultation with the ~~Department of Education~~ **Division of Elementary and Secondary Education** as having a critical shortage of teachers; or

(B) Located in a geographical area of the state designated by the ~~Department~~ **Division** of Higher Education in consultation with the ~~Department of Education~~ **Division of Elementary and Secondary Education** as having a critical shortage of teachers; and

(2) An additional one thousand dollars (\$1,000) per year for a maximum of three (3) years for a licensed teacher who is a minority and who graduated from a teacher education program after April 2004 and teaches in a public school in this state.

(b) The ~~Department~~ **Division** of Higher Education may spend no more than fifty thousand dollars (\$50,000) annually for costs associated with the administration of the program.

(c) The ~~Department~~ **Division** of Higher Education shall promulgate rules necessary for the implementation of this subchapter.

SECTION 2060. Arkansas Code § 6-81-1701 is amended to read as follows:

<< AR ST § 6-81-1701 >>

6-81-1701. Establishment — Administration.

There is established a Teacher Candidate Loan Forgiveness Program to be administered by the ~~Department~~ **Division** of Higher Education.

SECTION 2061. Arkansas Code § 6–81–1702(a)(4) and (5), concerning eligibility for loan amounts and terms for financing the cost of attendance at an institution of higher education, is amended to read as follows:

<< AR ST § 6–81–1702 >>

(4) Is majoring in a degree program that will lead to the individual's becoming eligible for licensure as a teacher in a high-needs subject area as identified by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; and

(5) Has entered into a written agreement with the ~~Department~~ **Division** of Higher Education to:

(A) Teach for five (5) consecutive years in a school or school district located in a geographic area identified by the ~~Department of Education~~ **Division of Elementary and Secondary Education** under § 6–15–403 [repealed] as a critical teacher shortage area beginning immediately upon obtaining licensure; and

(B) Repay each loan at an interest rate and on a schedule as determined by the ~~Department~~ **Division** of Higher Education if the individual fails to meet the requirements under this subchapter.

SECTION 2062. Arkansas Code § 6–81–1702(b), concerning eligibility for loan amounts and terms for financing the cost of attendance at an institution of higher education, is amended to read as follows:

<< AR ST § 6–81–1702 >>

(b) If the amount of funds available for the Teacher Candidate Loan Forgiveness Program is insufficient to award loans to all qualified applicants under this subchapter, the ~~Department~~ **Division** of Higher Education shall award the loans on a competitive basis as determined by the ~~Department~~ **Division** of Higher Education.

SECTION 2063. Arkansas Code § 6–81–1703(b)(2)(B), concerning loan amounts, terms, and renewals, is amended to read as follows:

<< AR ST § 6–81–1703 >>

(B) Meets the satisfactory academic progress standards required to receive other financial aid at the institution of higher education where the individual is enrolled, as determined by the ~~Department~~ **Division** of Higher Education in conjunction with the institution of higher education.

SECTION 2064. Arkansas Code § 6–81–1704 is amended to read as follows:

<< AR ST § 6–81–1704 >>

6–81–1704. Loan contract — Forgiveness.

(a) An individual who receives a loan under this subchapter shall execute a written loan contract with the ~~Department~~ **Division** of Higher Education for the repayment of the loan as provided in this subchapter.

(b) A loan contract executed under subsection (a) of this section shall provide that the total amount of the loans awarded to the individual under this subchapter, plus accrued interest, shall be forgiven at the rate of twenty percent (20%) per year for each year that the individual teaches in a school or school district located in a geographic area identified by

the Department of Education **Division of Elementary and Secondary Education** under § 6-15-403 [repealed] as a critical teacher shortage area.

SECTION 2065. Arkansas Code § 6-81-1705 is amended to read as follows:

<< AR ST § 6-81-1705 >>

6-81-1705. Repayment — Deferment.

(a) An individual who receives a loan under this subchapter shall immediately begin repayment of each loan the individual received, together with interest as determined by the Department **Division** of Higher Education, if the individual:

- (1) Ceases to be enrolled in good standing at an institution of higher education in this state, unless the individual has graduated and received a degree;
- (2) Does not obtain licensure as a teacher from the State Board of Education within one (1) year of graduating and receiving a degree;
- (3) Does not begin work as a licensed teacher in the academic year immediately following becoming licensed;
- (4) Does not teach in a school or school district located in a geographic area identified by the Department of Education **Division of Elementary and Secondary Education** under § 6-15-403 [repealed] as a critical teacher shortage area in the individual's first year as a licensed teacher; or
- (5)(A) Does not teach in a school or school district located in a geographic area identified by the Department of Education **Division of Elementary and Secondary Education** under § 6-15-403 [repealed] as a critical teacher shortage area for five (5) consecutive years beginning immediately upon obtaining licensure.

(B) The total amount of the loans awarded to an individual that are subject to repayment under subdivision (a) (5)(A) of this section shall be reduced on a pro rata basis as required under § 6-81-1704(b).

(b)(1) The Department **Division** of Higher Education may defer the requirements under subdivisions (a)(3)–(5) of this section if the Department **Division** of Higher Education, in consultation with the Department of Education **Division of Elementary and Secondary Education**, determines that there was no employment position available that would reasonably enable the individual to meet the requirements.

(2) After the period of deferral, the individual shall begin or resume teaching in a school or school district located in a geographic area identified by the Department of Education **Division of Elementary and Secondary Education** under § 6-15-403 [repealed] as a critical teacher shortage area or become subject to repayment under subsection (a) of this section.

SECTION 2066. Arkansas Code § 6-81-1706 is amended to read as follows:

<< AR ST § 6-81-1706 >>

6-81-1706. Rules.

The Department **Division** of Higher Education shall promulgate rules to implement this subchapter.

SECTION 2067. Arkansas Code § 6-82-102(a), concerning the annual review of minority scholarship or grant programs, is amended to read as follows:

<< AR ST § 6-82-102 >>

(a) The Arkansas Higher Education Coordinating Board shall review annually all minority scholarship or grant programs administered by the Department **Division** of Higher Education in order to ensure that the programs are in compliance with federal regulations.

SECTION 2068. The introductory language of Arkansas Code § 6-82-105, concerning the administration and authority of the Department of Higher Education, is amended to read as follows:

<< AR ST § 6-82-105 >>

The Department **Division** of Higher Education shall administer all state college financial assistance programs provided by legislation or by law and in so doing shall have the following authority and responsibility with respect to state college financial assistance programs provided by legislation or by law to:

SECTION 2069. Arkansas Code § 6-82-105(1), concerning the administration and authority of the Department of Higher Education, is amended to read as follows:

<< AR ST § 6-82-105 >>

(1) Adopt such rules as the department **division** shall deem necessary or appropriate to carry out the purposes of this subchapter;

SECTION 2070. Arkansas Code § 6-82-105(6), concerning the administration and authority of the Department of Higher Education, is amended to read as follows:

<< AR ST § 6-82-105 >>

(6) Require applicants to file additional information with the department **division** as necessary and appropriate to carry out the purposes of this subchapter and to prevent fraud, misrepresentation, or misleading representation by applicants;

SECTION 2071. Arkansas Code § 6-82-105(11), concerning the administration and authority of the Department of Higher Education, is amended to read as follows:

<< AR ST § 6-82-105 >>

(11) Employ or engage such professional, administrative, clerical, and other employees as may be necessary to assist the department **division** in the performance of its duties and responsibilities; and

SECTION 2072. Arkansas Code § 6-82-106 is amended to read as follows:

<< AR ST § 6-82-106 >>

6-82-106. Scholarship awards.

(a) The Department **Division** of Higher Education is authorized to award scholarships to students who are accepted to a Washington, D.C. public policy academic internship, as determined by the department **division**, if funding is appropriated and available.

(b) The ~~department~~ **division** may promulgate rules to administer this section.

SECTION 2073. Arkansas Code § 6–82–302(1), concerning the definition of “academic ability” under the laws governing the Arkansas Governor's Scholars Program, is amended to read as follows:

<< AR ST § 6–82–302 >>

(1) “Academic ability” means the intellectual standing of a student. In determining superior academic ability, the ~~Department~~ **Division** of Higher Education shall examine the student's high school records, competitive examination scores, and demonstrated leadership capabilities;

SECTION 2074. Arkansas Code § 6–82–302(4), concerning the definition of “department” under the laws governing the Arkansas Governor's Scholars Program, is repealed.

<< AR ST § 6–82–302 >>

~~(4) “Department” means the Department of Higher Education;~~

SECTION 2075. The introductory language of Arkansas Code § 6–82–302(5), concerning the definition of “eligible student” under the laws governing the Arkansas Governor's Scholars Program, is amended to read as follows:

<< AR ST § 6–82–302 >>

(5) “Eligible student” means a resident of the State of Arkansas as defined by the ~~Department~~ **Division** of Higher Education who:

SECTION 2076. Arkansas Code § 6–82–302(6)(B), concerning the definition of “extraordinary academic ability” under the laws governing the Arkansas Governor's Scholars Program, is amended to read as follows:

<< AR ST § 6–82–302 >>

(B) For students graduating after December 31, 2001, the American College Test scores and Scholastic Aptitude Test scores shall be earned by December 31 prior to the application deadline in order for the scores to be considered by the ~~department~~ **Division of Higher Education** for a scholarship award;

SECTION 2077. Arkansas Code § 6–82–302(7), concerning the definition of “full-time student” under the laws governing the Arkansas Governor's Scholars Program, is amended to read as follows:

<< AR ST § 6–82–302 >>

(7) “Full-time student” means a resident of Arkansas who is in attendance at an approved private or public institution and who is enrolled in at least twelve (12) credit hours the first semester and fifteen (15) hours thereafter, or other reasonable academic equivalent as defined by the ~~department~~ **Division of Higher Education**;

SECTION 2078. The introductory language of Arkansas Code § 6-82-304, concerning the administration and authority of the Department of Higher Education, is amended to read as follows:

<< AR ST § 6-82-304 >>

The ~~Department~~ **Division** of Higher Education shall administer the Arkansas Governor's Scholars Program and shall have the following authority and responsibility with respect to the program to:

SECTION 2079. Arkansas Code § 6-82-304(1), concerning the administration and authority of the Department of Higher Education, is amended to read as follows:

<< AR ST § 6-82-304 >>

(1) Prepare application forms or such other forms as the ~~department~~ **division** shall deem necessary to properly administer and carry out the purposes of this subchapter;

SECTION 2080. Arkansas Code § 6-82-304(8)(D)(iii), concerning the administration and authority of the Department of Higher Education, is amended to read as follows:

<< AR ST § 6-82-304 >>

(iii) The ~~department~~ **division** shall release a scholarship hold if the ~~department~~ **division** determines that the student did not complete the commitment under the written agreement.

SECTION 2081. Arkansas Code § 6-82-306(b)(2)(A), concerning eligibility to receive scholarships from the Arkansas Governor's Scholars Program, is amended to read as follows:

<< AR ST § 6-82-306 >>

(2)(A) Is a bona fide resident of the state, as defined by the ~~Department~~ **Division** of Higher Education.

SECTION 2082. Arkansas Code § 6-82-306(b)(5)(A), concerning eligibility to receive scholarships from the Arkansas Governor's Scholars Program, is amended to read as follows:

<< AR ST § 6-82-306 >>

(5)(A) Demonstrates proficiency in the application of knowledge and skills in reading and writing literacy and mathematics by passing the end-of-course examination as may be developed by the ~~Department of Education~~ **Division of Elementary and Secondary Education** and as may be designated by the ~~Department~~ **Division** of Higher Education for this purpose.

SECTION 2083. The introductory language of Arkansas Code § 6-82-306(b)(6)(A), concerning eligibility to receive scholarships from the Arkansas Governor's Scholars Program, is amended to read as follows:

<< AR ST § 6-82-306 >>

(6)(A) Satisfies the qualifications of superior academic ability as established by the Department **Division** of Higher Education with criteria consisting of value points for academic achievement and leadership, including without limitation:

SECTION 2084. Arkansas Code § 6-82-306(b)(6)(B), concerning eligibility to receive scholarships from the Arkansas Governor's Scholars Program, is amended to read as follows:

<< AR ST § 6-82-306 >>

(B)(i) The Department **Division** of Higher Education may alter the weight assigned to the individual criterion to more appropriately meet the needs of the state as determined by the Arkansas Higher Education Coordinating Board.

(ii) The Department **Division** of Higher Education shall ensure that the weight assigned to each individual criterion under this subdivision (b)(6)(B) does not place a home-schooled, public school, or private school student at a disadvantage.

(iii)(a) After determining qualified recipients based on the qualifications under subdivision (b)(6)(A) of this section, the Department **Division** of Higher Education shall ensure that at least one (1) recipient is selected from each of the seventy-five (75) counties in Arkansas.

(b) If any of the seventy-five (75) counties is not represented, the Department **Division** of Higher Education shall select a student from each nonrepresented county with the highest qualifications under subdivision (b)(6)(A) of this section who was not initially qualified.

SECTION 2085. Arkansas Code § 6-82-307 is amended to read as follows:

<< AR ST § 6-82-307 >>

6-82-307. Applicant's responsibilities.

Each applicant shall, in accordance with the provisions of this subchapter and the rules and regulations of the Department **Division** of Higher Education:

- (1) Complete and file with the department **division** the appropriate application for the Arkansas Governor's Scholars Program and such other information and data as may be requested by the department **division** in determining the eligibility of the student;
- (2) Furnish to the department **division** information regarding any change in status of the student or any other information that might have a direct bearing on the eligibility of the applicant; and
- (3) Provide the department **division** with verification that the scholarship was used in accordance with the purposes of this subchapter.

SECTION 2086. Arkansas Code § 6-82-308(b)(2) and (3), concerning the number of scholarships available for the Arkansas Governor's Scholars Program, are amended to read as follows:

<< AR ST § 6-82-308 >>

(2) Should a shortfall of funds be projected, the ~~Department~~ **Division** of Higher Education shall promulgate rules for the priority funding of these scholarships and submit these proposed rules to the Arkansas Higher Education Coordinating Board for a public hearing and to the Administrative Rules and Regulations Subcommittee of the Legislative Council for review before implementing the rules.

(3) If there are more eligible applicants than available scholarships, the ~~department~~ **division** may determine a procedure for awarding additional scholarships while not exceeding available funds.

SECTION 2087. Arkansas Code § 6-82-309 is amended to read as follows:

<< AR ST § 6-82-309 >>

6-82-309. Award of scholarship.

An Arkansas Governor's Scholarship or Arkansas Governor's Distinguished Scholarship will be awarded to a student in a manner to be determined by the ~~Department~~ **Division** of Higher Education.

SECTION 2088. Arkansas Code § 6-82-311(c)(4), concerning the term, renewal, and allocation of scholarships for the Arkansas Governor's Scholars Program, is amended to read as follows:

<< AR ST § 6-82-311 >>

(4) The recipient has met any other continuing eligibility criteria established by the ~~Department~~ **Division** of Higher Education.

SECTION 2089. Arkansas Code § 6-82-314 is amended to read as follows:

<< AR ST § 6-82-314 >>

6-82-314. Withdrawal from school — Refund.

If a recipient of an Arkansas Governor's Scholarship or Arkansas Governor's Distinguished Scholarship withdraws from an approved private or public institution and under the policy of that institution the student is entitled to a refund of any tuition, fees, or other charges, the institution shall pay the refund to which the student may be entitled to the ~~Department~~ **Division** of Higher Education to the extent of any amount the ~~department~~ **division** has paid to the student for that academic year.

SECTION 2090. Arkansas Code § 6-82-401(1)-(4), concerning the definitions under the Arkansas High Technology Scholarship Program, are amended to read as follows:

<< AR ST § 6-82-401 >>

(1) "Academic ability" means the intellectual standing of a student. In determining superior academic ability, the ~~Department~~ **Division** of Career **and Technical** Education shall examine the student's high school records, competitive examination scores, and demonstrated leadership capabilities;

(2) "Approved high technology program" means a course of instruction in a highly technical field offered by any postsecondary educational institution which is approved by the ~~department~~ **division**;

(3) "Approved institution" means all postsecondary educational institutions offering high technology programs which are approved by the department **division**;

(4) "Department" means the Department of Career Education;

SECTION 2091. The introductory language of Arkansas Code § 6-82-403, concerning the administration and authority of the Department of Career Education, is amended to read as follows:

<< AR ST § 6-82-403 >>

The Department **Division** of Career **and Technical** Education shall administer this subchapter and shall have the following authority and responsibility with respect thereto:

SECTION 2092. Arkansas Code § 6-82-403(1), concerning the administration and authority of the Department of Career Education, is amended to read as follows:

<< AR ST § 6-82-403 >>

(1) To prepare application forms or such other forms as the department **division** shall deem necessary to properly administer and carry out the purposes of this subchapter;

SECTION 2093. Arkansas Code § 6-82-404(b)(4), concerning eligibility and preferences regarding the rewarding of scholarships, is amended to read as follows:

<< AR ST § 6-82-404 >>

(4) Satisfactorily meets the qualifications of superior academic ability as established by the Department **Division** of Career **and Technical** Education.

SECTION 2094. Arkansas Code § 6-82-405 is amended to read as follows:

<< AR ST § 6-82-405 >>

6-82-405. Applicant's responsibilities.

Each applicant shall, in accordance with the provisions of this subchapter and the rules and regulations of the Department **Division** of Career **and Technical** Education:

(1) Complete and file with the department **division** the appropriate application for the scholarship and such other information and data as may be requested by the department **division** in determining the eligibility of the student;

(2) Furnish to the department **division** information regarding any change in status of the student or any other information that might have a direct bearing on the eligibility of the applicant; and

(3) Provide the department **division** with verification that the scholarship was used in accordance with the purposes of this subchapter.

SECTION 2095. Arkansas Code § 6–82–406 is amended to read as follows:

<< AR ST § 6–82–406 >>

6–82–406. Award of scholarship.

A scholarship shall be awarded to the student in a manner to be determined by the Department **Division** of Career and **Technical** Education.

SECTION 2096. Arkansas Code § 6–82–409(c), concerning the term, allocation, and renewal of scholarships, is amended to read as follows:

<< AR ST § 6–82–409 >>

(c) A scholarship shall be awarded for one (1) academic year and renewed annually for up to three (3) additional academic years if the student maintains not less than a 3.0 grade point average on a 4.0 scholastic grading scale, or an equivalent academic standing, and meets other criteria as established by the Department **Division** of Career and **Technical** Education.

SECTION 2097. Arkansas Code § 6–82–410 is amended to read as follows:

<< AR ST § 6–82–410 >>

6–82–410. Withdrawal from school — Refund.

If a recipient of a scholarship withdraws from an approved institution and under the policy of that institution the student is entitled to a refund of any tuition, fees, or other charges, the institution shall pay the refund to which the student may be entitled to the Department **Division** of Career and **Technical** Education, to the extent of any amount the department **division** has paid to the student for that academic year.

SECTION 2098. Arkansas Code § 6–82–506 is amended to read as follows:

<< AR ST § 6–82–506 >>

6–82–506. Written application for benefits.

Any person claiming benefits awarded by the Arkansas State Claims Commission under the provisions of this subchapter shall make written application with the Department **Division** of Higher Education on forms provided by the department **division**.

SECTION 2099. Arkansas Code § 6–82–507(2), concerning the renewal of a scholarship, is amended to read as follows:

<< AR ST § 6–82–507 >>

(2) Meet any other continuing eligibility criteria established by the Department **Division** of Higher Education.

SECTION 2100. Arkansas Code § 6–82–601(b), concerning the tuition waiver for dependents of certain veterans, is amended to read as follows:

<< AR ST § 6–82–601 >>

(b) Each applicant must apply for the Survivors' and Dependents' Educational Assistance program (DEA) Chapter 35 of Title 38 of the United States Code with the United States Department of Veterans Affairs. The applicant must provide the ~~Arkansas Department~~ **Division** of Higher Education with proof of acceptance of DEA or non-eligibility into DEA upon application to this program.

SECTION 2101. Arkansas Code § 6-82-601(f), concerning the tuition waiver for dependents of certain veterans, is amended to read as follows:

<< AR ST § 6-82-601 >>

(f) An eligible recipient shall receive a scholarship for one (1) academic year, renewable for up to three (3) additional academic years if the recipient meets continuing eligibility criteria established by the ~~Department~~ **Division** of Higher Education.

SECTION 2102. Arkansas Code § 6-82-601(h), concerning tuition waiver for dependents of certain veterans, is amended to read as follows:

<< AR ST § 6-82-601 >>

(h) In compliance with the ~~Department~~ **Division** of Higher Education's scholarship stacking policy, no student's total financial aid package, which can include multiple scholarships, can exceed the recognized cost of attendance at a higher education institution.

SECTION 2103. Arkansas Code § 6-82-1503(e)(3), concerning the eligibility for scholarships and the amount, is amended to read as follows:

<< AR ST § 6-82-1503 >>

(3) The maximum number of awards that may be made to students attending school on a part-time basis and the maximum time period for part-time students to complete the number of academic hours necessary to obtain a baccalaureate degree in education shall be established by rules and regulations jointly promulgated by the university and the ~~Department~~ **Division** of Higher Education.

SECTION 2104. Arkansas Code § 6-82-1504(a), concerning the service requirement for scholarship recipients, is amended to read as follows:

<< AR ST § 6-82-1504 >>

(a) Except in those cases where employment positions may not be available upon completion of licensure requirements, at the beginning of the first school year in which a recipient of a Critical Needs Minority Teacher Scholarship is eligible for employment as a licensed teacher, that person shall begin to render service as a licensed teacher in a public school district in a geographical area of the state where there is a critical shortage of teachers or in the Delta, as designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 2105. Arkansas Code § 6-82-1504(c), concerning the service requirement for scholarship recipients, is amended to read as follows:

<< AR ST § 6-82-1504 >>

(c) Students receiving a scholarship shall execute a note made payable to the university for an amount equal to the scholarship award each semester that shall bear interest at a rate to be determined by the ~~Department~~ **Division** of Higher Education beginning September 1 after completion of the program or immediately after termination of the scholarship loan, whichever is earlier.

SECTION 2106. Arkansas Code § 6-82-1505(a), concerning rules, regulations, administration, and reports regarding the Critical Needs Minority Teacher Scholarship Program, is amended to read as follows:

<< AR ST § 6-82-1505 >>

(a) The University of Arkansas at Pine Bluff and the ~~Department~~ **Division** of Higher Education shall jointly promulgate rules and regulations necessary for the proper administration of the Critical Needs Minority Teacher Scholarship Program.

SECTION 2107. The introductory language of Arkansas Code § 6-82-1801(1), concerning the definition of “approved institution of higher education” under the laws governing the Arkansas Future Grant Program, is amended to read as follows:

<< AR ST § 6-82-1801 >>

(1) “Approved institution of higher education” means an institution of higher education approved by the ~~Department~~ **Division** of Higher Education to participate in the Arkansas Future Grant Program and that is:

SECTION 2108. Arkansas Code § 6-82-1801(2)(E), concerning the definition of “approved state-supported school of nursing” under the laws governing the Arkansas Future Grant Program, is amended to read as follows:

<< AR ST § 6-82-1801 >>

(E) Has been approved by the ~~Department~~ **Division** of Higher Education as eligible to participate in the Arkansas Future Grant Program; and

SECTION 2109. Arkansas Code § 6-82-1801(5)(A), concerning the definition of “state-supported student financial assistance” under the laws governing the Arkansas Future Grant Program, is amended to read as follows:

<< AR ST § 6-82-1801 >>

(A) The ~~Department~~ **Division** of Higher Education; or

SECTION 2110. Arkansas Code § 6-82-1802(a), concerning the creation of and eligibility for the Arkansas Future Grant Program, is amended to read as follows:

<< AR ST § 6-82-1802 >>

(a) There is established the Arkansas Future Grant Program within the ~~Department~~ **Division** of Higher Education.

SECTION 2111. Arkansas Code § 6–82–1802(b)(1)(A)(ii), concerning the creation of and eligibility for the Arkansas Future Grant Program, is amended to read as follows:

<< AR ST § 6–82–1802 >>

(ii) Received a high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services**; or

SECTION 2112. Arkansas Code § 6–82–1803(b) and (c), concerning the Arkansas Future Grant, are amended to read as follows:

<< AR ST § 6–82–1803 >>

(b) The ~~Department~~ **Division** of Higher Education shall disburse the grant directly to the approved institution of higher education.

(c) The ~~department~~ **division** shall award grants under this subchapter in the order in which the ~~department~~ **division** receives applications from eligible students.

SECTION 2113. Arkansas Code § 6–82–1804 is amended to read as follows:

<< AR ST § 6–82–1804 >>

6–82–1804. Recipients.

(a) A student who receives an Arkansas Future Grant shall enter into a written agreement with the ~~Department~~ **Division** of Higher Education to:

(1)(A) Receive monthly mentoring from a mentor from an organization determined by the ~~Department~~ **Division** of Higher Education.

(B) A mentor under subdivision (a)(1)(A) of this section shall:

(i) Receive annual mentoring training:

(a) Developed by the ~~Department~~ **Division** of Higher Education; and

(b) Provided by a local volunteer group approved by the ~~Department~~ **Division** of Higher Education; and

(ii) Certify to the ~~Department~~ **Division** of Higher Education that at least one (1) time each calendar month the mentor has provided mentoring services by telephone, email, or in person to each student he or she is mentoring;

(2)(A) Complete at least fifteen (15) hours of community service each semester the student receives a grant.

(B)(i) A student may select a community service project that meets requirements developed by the ~~Department~~ **Division** of Higher Education.

(ii) An approved institution of higher education may provide community services opportunities designed to benefit the approved institution of higher education community or the broader local community.

(C) A student shall certify his or her community service to the approved institution of higher education by the last regular day of the semester the student received the grant; and

(3)(A) Reside in this state for three (3) consecutive years and be employed beginning within six (6) months after receiving an associate degree or a certification.

(B) The ~~Department~~ **Division** of Higher Education may defer the requirement under subdivision (a)(3)(A) of this section if:

(i) The ~~Department~~ **Division** of Higher Education, in consultation with the ~~Department~~ **Division** of Workforce Services, determines that there was no employment position available that would reasonably enable the student to meet this requirement; or

(ii) Special circumstances as determined by the ~~Department~~ **Division** of Higher Education exist.

(C) After the period of deferral, the student shall begin or resume working in this state or become subject to repayment under subsection (b) of this section.

(b) The written agreement under subsection (a) of this section shall provide that the grant converts into a loan and the student shall repay the grant amount:

(1) On a pro rata basis at an interest rate and on a schedule as determined by the ~~Department~~ **Division** of Higher Education for each year the student does not reside in this state for three (3) consecutive years and become employed beginning within six (6) months after receiving an associate degree or a certification; or

(2) In its entirety at an interest rate and on a schedule as determined by the ~~Department~~ **Division** of Higher Education if the recipient does not comply with the written agreement under subsection (a) of this section.

SECTION 2114. Arkansas Code § 6-82-1805 is amended to read as follows:

<< AR ST § 6-82-1805 >>

6-82-1805. Rules.

The ~~Department~~ **Division** of Higher Education shall promulgate rules to implement this subchapter.

SECTION 2115. Arkansas Code § 6-82-1901(b)(3), concerning scholarships for teachers in high-needs subject areas, is amended to read as follows:

<< AR ST § 6-82-1901 >>

(3)(A) Enter into a written agreement with the ~~Department~~ **Division** of Higher Education to teach at a public school for a minimum of five (5) consecutive years in a high-needs subject area as determined under subdivision (b)(3)(B) of this section.

(B) A recipient shall be deemed to be teaching in a high-needs subject area if the subject area in which the recipient is employed to teach was determined by the ~~Department of Education~~ **Division of Elementary and Secondary Education** to be a high-needs subject area in:

- (i) The year the recipient entered into the agreement with the ~~Department~~ **Division** of Higher Education under subdivision (b)(3)(A) **of this section**;
- (ii) Any year the recipient received a scholarship award under this subchapter; or
- (iii) The year the recipient is licensed as a teacher by the State Board of Education.

SECTION 2116. The introductory language of Arkansas Code § 6-82-1901(c), concerning scholarships for teachers in high-needs subject areas, is amended to read as follows:

<< AR ST § 6-82-1901 >>

(c) The written agreement entered into by the recipient and the ~~Department~~ **Division** of Higher Education under subdivision (b)(3) of this section shall provide that the recipient:

SECTION 2117. Arkansas Code § 6-82-1901(c)(2)(A), concerning scholarships for teachers in high-needs subject areas, is amended to read as follows:

<< AR ST § 6-82-1901 >>

(A) On a pro rata basis at an interest rate and on a schedule as determined by the ~~Department~~ **Division** of Higher Education for each year the recipient does not teach at a public school in a high-needs subject area if the recipient does not teach at a public school in a high-needs subject area as determined by the ~~Department of Education~~ **Division of Elementary and Secondary Education** for five (5) consecutive years after first becoming employed as a licensed teacher; or

SECTION 2118. The introductory language of Arkansas Code § 6-82-1901(c)(2)(B), concerning scholarships for teachers in high-needs subject areas, is amended to read as follows:

<< AR ST § 6-82-1901 >>

(B) In its entirety at an interest rate and on a schedule as determined by the ~~Department~~ **Division** of Higher Education if the recipient does not:

SECTION 2119. Arkansas Code § 6-82-1901(c)(2)(B)(ii) and (iii), concerning scholarships for teachers in high-needs subject areas, are amended to read as follows:

<< AR ST § 6-82-1901 >>

(ii) Begin work at a public school as a licensed teacher in a high-needs subject area, as determined by the ~~Department of Education~~ **Division of Elementary and Secondary Education**, in the academic year immediately following becoming licensed; or

(iii) Teach at a public school in a high-needs subject area as determined by the Department of Education **Division of Elementary and Secondary Education** in the recipient's first year as a licensed teacher.

SECTION 2120. Arkansas Code § 6-82-1901(d)(1), concerning scholarships for teachers in high-needs subject areas, is amended to read as follows:

<< AR ST § 6-82-1901 >>

(d)(1) The Department **Division** of Higher Education may defer the requirements under subdivisions (c)(2)(B)(ii) and (iii) of this section if the Department **Division** of Higher Education, in consultation with the Department of Education **Division of Elementary and Secondary Education**, determines that there was no employment position available at a public school that would reasonably enable the recipient to meet the requirements.

SECTION 2121. Arkansas Code § 6-82-1901(e)-(h), concerning scholarships for teachers in high-needs subject areas, are amended to read as follows:

<< AR ST § 6-82-1901 >>

(e)(1) By March 1 of each year, the Department of Education **Division of Elementary and Secondary Education** shall provide to the Department **Division** of Higher Education a maximum on the number of scholarships that should be awarded under this subchapter for the following academic year based on the projected needs of licensed teachers at public schools in high-needs subject areas.

(2) The Department **Division** of Higher Education shall not award for an academic year more scholarships than the maximum number provided by the Department of Education **Division of Elementary and Secondary Education** under subdivision (e)(1) of this section.

(f) If the Department **Division** of Higher Education receives applications from more qualified applicants than the number of scholarships available or if funds are not available to award scholarships to all qualified applicants, the Department **Division** of Higher Education shall award the scholarships on a competitive basis as determined by the Department **Division** of Higher Education.

(g) If a recipient of a scholarship under this subchapter withdraws from an approved institution of higher education so that under the rules of that approved institution of higher education the recipient is entitled to a refund of any tuition, fees, or other charges, the approved institution of higher education shall pay the refund to which the recipient may be entitled to the Department **Division** of Higher Education to the extent of any amount the Department **Division** of Higher Education has paid to the recipient for that academic year.

(h) The Department **Division** of Higher Education shall promulgate rules to implement this subchapter.

SECTION 2122. Arkansas Code § 6-84-104(b), concerning the creation of the Arkansas Tax-Deferred Tuition Savings Program Trust, is amended to read as follows:

<< AR ST § 6-84-104 >>

(b) The co-trustees of the trust shall be the Director of the Department **Division** of Higher Education, the Executive Director of the Arkansas Teacher Retirement System, and the Treasurer of State.

SECTION 2123. Arkansas Code § 6–84–105(a)(1), concerning the administration, authority, and powers of the Section 529 Plan Review Committee, is amended to read as follows:

<< AR ST § 6–84–105 >>

(1) The Director of the ~~Department~~ **Division** of Higher Education;

SECTION 2124. The introductory language of Arkansas Code § 6–85–104(1), concerning the definition of “approved institution” under the laws governing the Arkansas Academic Challenge Scholarship Program — Part 1, is amended to read as follows:

<< AR ST § 6–85–104 >>

(1) “Approved institution” means an institution of higher education approved by the ~~Department~~ **Division** of Higher Education to participate in the Arkansas Academic Challenge Scholarship Program that is:

SECTION 2125. Arkansas Code § 6–85–104(2)(B), concerning the definition of “eligible student” under the laws governing the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–104 >>

(B) Is deemed to be eligible by rules authorized by this subchapter and promulgated by the ~~Department~~ **Division** of Higher Education;

SECTION 2126. Arkansas Code § 6–85–104(3), concerning the definition of “financial need” under the laws governing the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–104 >>

(3) “Financial need” means the family income of program applicants as determined by the ~~Department~~ **Division** of Higher Education through evaluation of program applications and supporting documentation;

SECTION 2127. Arkansas Code § 6–85–104(4)(A), concerning the definition of “full-time undergraduate student” under the laws governing the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–104 >>

(4)(A) “Full-time undergraduate student” means a resident of Arkansas who attends an approved institution and who is enrolled for at least twelve (12) credit hours the first semester and fifteen (15) credit hours thereafter or the equivalent, as defined by the ~~Department~~ **Division** of Higher Education, in a program of study that leads to or is creditable toward a baccalaureate degree, an associate degree in nursing, or a nursing school diploma.

SECTION 2128. Arkansas Code § 6–85–105 is amended to read as follows:

<< AR ST § 6–85–105 >>

6-85-105. Authority of Department Division of Higher Education.

(a) The Department **Division** of Higher Education is authorized by this subchapter to develop and promulgate rules for the administration of the Arkansas Academic Challenge Scholarship Program, consistent with the purposes and requirements of this subchapter.

(b) The rules shall include student eligibility criteria based on the provisions of this subchapter, the method for selecting scholarship recipients, rules for determining continuing eligibility, procedures for making payment to recipients, and other administrative procedures that may be necessary for the implementation and operation of the program.

(c) Until the end of fiscal year 2011, the Department **Division** of Higher Education is authorized to expend each year for data processing and other administrative costs of this program up to one and five-tenths percent (1.5%) of the amount appropriated for the programs.

(d) Applicants must certify that they are drug-free and must pledge in writing on the application form to refrain from the use or abuse of illegal substances in order to maintain eligibility for this program.

(e)(1) The Department of Education **Division of Elementary and Secondary Education** and the Department **Division** of Higher Education are directed to develop appropriate informational materials on the Arkansas Academic Challenge Scholarship Program and to ensure their distribution to Arkansas students in grades seven through twelve (7-12) each year as part of the packet of materials on precollegiate preparation distributed by the Department of Education **Division of Elementary and Secondary Education** as mandated by § 6-61-217.

(2) The distribution of information shall be accomplished through the collaboration of school counselors and other appropriate school personnel.

(f) The Director of the Department **Division** of Higher Education is authorized to review and evaluate the operation of the program with regard to eligibility criteria and size of the scholarship award to ensure that the program's operation meets the intent of this subchapter.

(g) The Department **Division** of Higher Education is authorized to determine the necessary procedures for the awarding of scholarships should the number of eligible applicants exceed the funds available.

(h) The Department **Division** of Higher Education shall report to the General Assembly annually regarding the implementation of the provisions of this subchapter.

SECTION 2129. Arkansas Code § 6-85-106(a), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6-85-106 >>

(a) Eligibility for the Arkansas Academic Challenge Scholarship Program is based on the criteria under this section and rules promulgated under this subchapter by the Department **Division** of Higher Education.

SECTION 2130. Arkansas Code § 6-85-106(b)(4), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6-85-106 >>

(4) The applicant is accepted for admission at an approved institution as a full-time first-time freshman as defined by the Department **Division** of Higher Education and enrolls in an approved institution within twelve (12) months of the applicant's high school graduation;

SECTION 2131. Arkansas Code § 6–85–106(b)(5)(B)(i) and (ii), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, are amended to read as follows:

<< AR ST § 6–85–106 >>

(i) Successfully completed the Smart Core curriculum as established by the Department of Education **Division of Elementary and Secondary Education**; and

(ii)(a) Demonstrated proficiency in the application of knowledge and skills in reading and writing literacy and mathematics by passing the end-of-course assessments developed by the Department of Education **Division of Elementary and Secondary Education**.

(b) “End-of-course” assessments means those assessments defined in § 6–15–419.

SECTION 2132. Arkansas Code § 6–85–106(b)(5)(C)(ii), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–106 >>

(ii) A minimum composite score of nineteen (19) or higher on the American College Test or the equivalent as defined by the Department **Division** of Higher Education.

SECTION 2133. Arkansas Code § 6–85–106(b)(5)(D), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–106 >>

(D)(i) The grade point average requirements of subdivision (b)(5)(C) of this section may be reduced to no lower than a 2.5 on a 4.0 scale by a rules change by the Department **Division** of Higher Education if it is determined by the Department **Division** of Higher Education, based on the most recent evaluation of the program's operation, that the change to a 3.0 or 2.75 grade point average on a 4.0 scale would unduly reduce the number of low-income or disadvantaged students who would otherwise be eligible for the program.

(ii) At the Department **Division** of Higher Education's discretion, the Department **Division** of Higher Education may make the reduction for admissions to institutions with a high percentage of students receiving full Pell Grants upon petition to the Department **Division** of Higher Education by the institution.

SECTION 2134. Arkansas Code § 6–85–106(b)(5)(E)(i), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–106 >>

(E)(i) The ~~Department~~ **Division** of Higher Education may develop selection criteria through program rules that combine an applicant's American College Test or equivalent score and grade point average in the core curriculum into a selection index.

SECTION 2135. Arkansas Code § 6–85–106(b)(6)(A), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–106 >>

(6)(A) An applicant shall demonstrate financial need as defined by the ~~Department~~ **Division** of Higher Education.

SECTION 2136. The introductory language of Arkansas Code § 6–85–106(b)(6)(B), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–106 >>

(B) The ~~Department~~ **Division** of Higher Education shall use the following criteria in calculating financial need for applicants who graduated from an Arkansas high school after December 31, 2000, but before December 31, 2004:

SECTION 2137. Arkansas Code § 6–85–106(b)(6)(B)(iv), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–106 >>

(iv) Any applicant whose family includes more than one (1) unemancipated child enrolled full time at an approved institution shall be entitled to an additional ten thousand dollars (\$10,000) of adjusted gross income for each additional unemancipated child enrolled full time at an approved institution when the ~~Department~~ **Division** of Higher Education calculates financial need.

SECTION 2138. The introductory language of Arkansas Code § 6–85–106(b)(6)(C), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–106 >>

(C) In calculating financial need for applicants who graduate from an Arkansas high school after December 31, 2006, a Free Application for Federal Student Aid or a subsequent application required by the United States Department of Education for federal financial aid shall be filed by the applicant or other proof of family income as defined by the ~~Department~~ **Division** of Higher Education. The following criteria shall be used:

SECTION 2139. Arkansas Code § 6–85–106(b)(6)(C)(iv), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–106 >>

(iv) Any applicant whose family includes more than one (1) unemancipated child enrolled full time at an approved institution of higher education shall be entitled to an additional ten thousand dollars (\$10,000) of adjusted gross income for each additional unemancipated child enrolled full time at an approved institution of higher education when the Department **Division** of Higher Education calculates financial need.

SECTION 2140. Arkansas Code § 6–85–106(c)(2), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–106 >>

(2) Financial need criteria necessary for the selection of recipients, including those defined as emancipated or independent by federal student aid regulations, shall be established through rules issued by the Department **Division** of Higher Education.

SECTION 2141. Arkansas Code § 6–85–106(e)(2)(C), concerning eligibility for the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–106 >>

(C) Shall receive the prerequisite training in literacy and college readiness from an accredited Arkansas institution of higher education based on training modules developed by the Department of Education **Division of Elementary and Secondary Education**; and

SECTION 2142. Arkansas Code § 6–85–107(a)(3), concerning the duration and amount of the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–107 >>

(3) The recipient meets any other continuing eligibility criteria established by the Department **Division** of Higher Education.

SECTION 2143. Arkansas Code § 6–85–108 is amended to read as follows:

<< AR ST § 6–85–108 >>

6–85–108. Nursing school eligibility.

(a)(1) The General Assembly recognizes that the State of Arkansas is experiencing a critical shortage of nurses.

(2) It is the intent of this section to allow the ~~Department~~ **Division** of Higher Education the opportunity to include associate degree granting and diploma schools of nursing in the Arkansas Academic Challenge Scholarship Program under specific circumstances.

(b) The ~~department~~ **division** shall make awards to applicants attending either an associate degree or diploma school preparing registered nurses that is approved by the Arkansas State Board of Nursing and which would not otherwise be an approved institution if:

(1) The nursing school is specifically recognized by the ~~department~~ **division** as a school of nursing eligible to participate in the Arkansas Academic Challenge Scholarship Program; and

(2) The recipient meets continuing eligibility requirements in § 6-85-106.

(c) The scholarships awarded to recipients under this section shall be subject to § 6-85-105(g).

(d) The Arkansas Higher Education Coordinating Board and the ~~department~~ **division** shall promulgate rules necessary for the implementation of this section.

SECTION 2144. Arkansas Code § 6-85-109 is amended to read as follows:

<< AR ST § 6-85-109 >>

6-85-109. Priority for teaching commitment.

(a) During times of funding shortages under the Arkansas Academic Challenge Scholarship Program, the ~~Department~~ **Division** of Higher Education shall give a priority to awards to applicants meeting all eligibility requirements under the program who agree to accept a forgivable loan, as set forth in this section, in lieu of a scholarship and who agree to teach, as required under § 6-85-110, in a:

(1) Subject matter area designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as having a critical shortage of teachers; or

(2) Geographical area of the state designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as having a critical shortage of teachers.

(b) The ~~Department~~ **Division** of Higher Education shall make awards under this subchapter as follows:

(1) First, to applicants who agree to the provisions of this section; and

(2) Then to applicants eligible under § 6-85-106(b).

(c) Forgivable loans awarded under this section shall be paid from appropriations to the program.

SECTION 2145. Arkansas Code § 6-85-110(a)(1)(A) and (B), concerning teaching requirements, are amended to read as follows:

<< AR ST § 6-85-110 >>

(A) In a subject matter area designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as having a critical shortage of teachers if the recipient's award was made under § 6-85-109(a)(1); or

(B) In a geographical area of the state designated by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as having a critical shortage of teachers if the recipient's award was made under § 6-85-109(a) (2).

SECTION 2146. Arkansas Code § 6-85-110(a)(2)(B), concerning teaching requirements, is amended to read as follows:

<< AR ST § 6-85-110 >>

(B) Any person who received a forgivable loan under § 6-85-109 in an amount less than four (4) annual awards or the equivalent of four (4) annual awards shall render one (1) year's service as a licensed teacher for each year that the person received a full-time student forgivable loan or for the number of academic hours equivalent to one (1) school year, as determined by the ~~Department~~ **Division** of Higher Education, for which a part-time student received a forgivable loan.

SECTION 2147. Arkansas Code § 6-85-110(b), concerning teaching requirements, is amended to read as follows:

<< AR ST § 6-85-110 >>

(b) Any person receiving a forgivable loan shall execute a note made payable to the ~~Department~~ **Division** of Higher Education for an amount equal to the scholarship award each semester that shall bear interest at a rate to be determined by the ~~Department~~ **Division** of Higher Education and set forth in the note after completion of the program or immediately after termination of the forgivable loan, whichever is earlier.

SECTION 2148. Arkansas Code § 6-85-110(d), concerning teaching requirements, is amended to read as follows:

<< AR ST § 6-85-110 >>

(d)(1) Except as provided in subdivision (d)(2) of this section, any person failing to complete the teaching obligation as required by this subchapter shall become immediately liable to the ~~Department~~ **Division** of Higher Education for the sum of all forgivable loan awards made to that person less the corresponding amount of any awards for which service has been rendered according to the note's terms.

(2) The ~~Department~~ **Division** of Higher Education may defer payment on the note if an employment position is not immediately available upon a teacher's completion of licensure requirements or for other just cause as determined by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(3) After the period of deferral, the person shall begin or resume teaching duties as required under this section or shall become liable to the ~~Department~~ **Division** of Higher Education under this section.

SECTION 2149. Arkansas Code § 6-85-111 is amended to read as follows:

<< AR ST § 6-85-111 >>

6-85-111. End-of-course assessment requirements.

The Department **Division** of Higher Education may recognize a sub-score of nineteen (19) or higher in the applicable subject area on the American College Test as meeting the requirements for passing end-of-course assessments under the Arkansas Academic Challenge Scholarship Program and the Arkansas Governor's Scholars Program for a student who:

- (1) Has not had an opportunity to take an end-of-course assessment;
- (2) Has not passed the end-of-course assessment; or
- (3) Is attending a private school or home school.

SECTION 2150. Arkansas Code § 6–85–204(2), concerning the definition of “ACT equivalent” under the laws governing the Arkansas Academic Challenge Scholarship Program — Part 2, is amended to read as follows:

<< AR ST § 6–85–204 >>

- (2) “ACT equivalent” means the Scholastic Aptitude Test (SAT), COMPASS, Accuplacer, or other nationally normed test that is correlated with the ACT and approved by the Department **Division** of Higher Education for use by institutions of higher education to assess a person's college readiness;

SECTION 2151. The introductory language of Arkansas Code § 6–85–204(3), concerning the definition of “approved institution of higher education” under the laws governing the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–204 >>

- (3) “Approved institution of higher education” means an institution of higher education approved by the Department **Division** of Higher Education to participate in the Arkansas Academic Challenge Scholarship Program — Part 2 and that is:

SECTION 2152. Arkansas Code § 6–85–204(4)(E), concerning the definition of “approved school of nursing” under the laws governing the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–204 >>

- (E) Has been approved by the Department **Division** of Higher Education as eligible to participate in the Arkansas Academic Challenge Scholarship Program; and

SECTION 2153. The introductory language of Arkansas Code § 6–85–204(5), concerning the definition of “Arkansas resident” under the laws governing the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–204 >>

- (5) “Arkansas resident” means a natural person who provides evidence deemed sufficient by the Department **Division** of Higher Education that:

SECTION 2154. Arkansas Code § 6–85–204(20), concerning the definition of “scholarship hold” under the laws governing the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–204 >>

(20) “Scholarship hold” means the temporary suspension of a scholarship award to a traditional student under this subchapter approved by the ~~Department~~ **Division** of Higher Education under § 6–85–221;

SECTION 2155. The introductory language of Arkansas Code § 6–85–204(21), concerning the definition of “semester” under the laws governing the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–204 >>

(21) “Semester” means one-half (1/2) of a traditional academic year at an institution of higher education, or an equivalent approved by the ~~Department~~ **Division** of Higher Education, in which a student enrolls for not less than:

SECTION 2156. Arkansas Code § 6–85–204(22)(B)(i), concerning the definition of “Smart Core” under the laws governing the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–204 >>

(i) Established by rules of the ~~state board~~ **State Board of Education** in coordination with the ~~Department~~ **Division** of Higher Education; and

SECTION 2157. Arkansas Code § 6–85–204(23)(A), concerning the definition of “state-supported student financial assistance” under the laws governing the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–204 >>

(A) The ~~Department~~ **Division** of Higher Education; or

SECTION 2158. Arkansas Code § 6–85–204(26)(B), concerning the definition of “traditional student” under the laws governing the Arkansas Academic Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–204 >>

(B) “Traditional student” includes a student who otherwise meets this definition but delays entering postsecondary education under a scholarship hold approved by the ~~Department~~ **Division** of Higher Education.

SECTION 2159. Arkansas Code § 6–85–205 is amended to read as follows:

<< AR ST § 6–85–205 >>

6-85-205. Authority and duties of the Department Division of Higher Education.

(a) The Department **Division** of Higher Education shall develop and promulgate rules for the administration of the Arkansas Academic Challenge Scholarship Program consistent with the purposes and requirements of this subchapter.

(b) The rules developed and promulgated by the Department **Division** of Higher Education under this section shall pertain to:

- (1) Student eligibility criteria based on this subchapter;
- (2) The method for selecting scholarship recipients and for determining continuing eligibility;
- (3) The procedures for making payment to an approved institution of higher education where the recipient is enrolled; and
- (4) Other administrative procedures that may be necessary for the implementation and operation of the program.

(c) The Department **Division** of Higher Education shall implement a complete financial aid management system that uses a single application form that may be accessed as a web-based application for all Arkansas state-supported student financial assistance administered by the Department **Division** of Higher Education, including:

- (1) Scholarships awarded under this subchapter or other state law that are funded with net proceeds from the state lottery; and
- (2) Scholarships, grants, or other financial assistance for higher education students funded with nonlottery state educational resources.

(d)(1) The Department of Education **Division of Elementary and Secondary Education** and the Department **Division** of Higher Education are directed to develop appropriate informational materials on the Arkansas Academic Challenge Scholarship Program and to ensure distribution of the materials to Arkansas students in grade seven through grade twelve (7-12) each year as a part of the packet of materials on precollegiate preparation distributed by the Arkansas Higher Education Coordinating Board under § 6-61-217 and by the Department of Education **Division of Elementary and Secondary Education** under the Higher Education Awareness Act of 1993, § 6-5-401 et seq.

(2) The distribution of informational materials under this section shall be accomplished through the collaboration of school counselors and other appropriate public school or Department **Division** of Higher Education personnel.

(3) The Department **Division** of Higher Education shall provide a copy of the informational materials developed under this section to the Legislative Council for review.

(e) The Director of the Department **Division** of Higher Education shall review and evaluate the operation of the program with regard to eligibility criteria and size of the scholarship award to ensure that the program's operation meets the intent of this subchapter.

(f) The Department **Division** of Higher Education may determine the necessary procedures for the awarding of scholarships if the number of eligible applicants exceeds the funds available based on the criteria under this subchapter.

(g)(1)(A) By July 15 of each year, the Director of the Department **Division** of Higher Education shall provide a report to the Legislative Council on:

- (i) The implementation of this subchapter;
- (ii) The number of recipients that either:

- (a) Dropped out during the academic year; or
- (b) Lost the scholarship during the academic year; and
- (iii) Any additional information requested by the Legislative Council.

(B) The Legislative Council shall include the information reported under this subsection in its annual report to the General Assembly under § 6–85–220.

(2) By August 1 of each year, the ~~Department~~ **Division** of Higher Education shall provide to the Legislative Council an unaudited financial report on the administration of the Arkansas Academic Challenge Scholarship Program for the fiscal year just ended.

SECTION 2160. Arkansas Code § 6–85–206(1)(C)(i), concerning basic eligibility requirements for an award from the Arkansas Academic Challenge Scholarship Program — Part 2, is amended to read as follows:

<< AR ST § 6–85–206 >>

(C)(i) To be considered an Arkansas resident, an applicant shall demonstrate residency by evidence deemed sufficient to the ~~Department~~ **Division** of Higher Education.

SECTION 2161. The introductory language of Arkansas Code § 6–85–206(1)(D), concerning basic eligibility requirements for an award from the Arkansas Academic Challenge Scholarship Program — Part 2, is amended to read as follows:

<< AR ST § 6–85–206 >>

(D) During the twelve (12) months immediately preceding the date an applicant will enroll in an approved institution of higher education if the person for whom the twelve-month period is calculated under subdivision (1)(A) or subdivision (1)(B) of this section is deployed outside of Arkansas under military orders, the ~~Department~~ **Division** of Higher Education shall calculate the twelve (12) months by:

SECTION 2162. Arkansas Code § 6–85–206(3)(B) and (C), concerning basic eligibility requirements for an award from the Arkansas Academic Challenge Scholarship Program — Part 2, are amended to read as follows:

<< AR ST § 6–85–206 >>

(B) A full-time student shall enroll in at least twenty-seven (27) semester hours the first academic year and thirty (30) semester hours per academic year thereafter or the equivalent, as described in this subchapter, or the equivalent as defined by the ~~Department~~ **Division** of Higher Education.

(C) A part-time student shall complete at least six (6) semester hours but less than the minimum number of semester hours for a full-time student, as defined by the ~~Department~~ **Division** of Higher Education;

SECTION 2163. Arkansas Code § 6-85-207(3)(B), concerning additional eligibility requirements for traditional students, is amended to read as follows:

<< AR ST § 6-85-207 >>

(B) In the year in which the student would have been a junior or senior in high school, completed the requirements for high school graduation and obtained a high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services** instead of receiving a diploma; or

SECTION 2164. Arkansas Code § 6-85-208(1)(B), concerning additional eligibility requirements for a nontraditional student, is amended to read as follows:

<< AR ST § 6-85-208 >>

(B) Graduated from an Arkansas public high school, a private high school, an out-of-state high school, a home school high school, or obtained a high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services** and had a minimum composite score of nineteen (19) on the ACT or the equivalent score on an ACT equivalent; or

SECTION 2165. Arkansas Code § 6-85-209(a)(2)(A)(ii), concerning additional eligibility requirements for a current achiever student, is amended to read as follows:

<< AR ST § 6-85-209 >>

(ii) In calculating continuous enrollment under this section, the ~~Department~~ **Division** of Higher Education may include one (1) or more courses taken during the summer that meet the criteria for a course under subdivision (a)(2)(B)(ii) of this section;

SECTION 2166. Arkansas Code § 6-85-209(b), concerning additional eligibility requirements for a current achiever student, is amended to read as follows:

<< AR ST § 6-85-209 >>

(b) The ~~department~~ **division** may waive the requirements of subdivision (a)(1)(B) or **subdivision (a)(2) of this section** for eligibility under this section if an applicant does not meet those eligibility requirements due to the applicant's full-time duty in the active uniformed service of the United States, including members of the National Guard and reserve components of the United States Armed Forces on active duty orders.

SECTION 2167. Arkansas Code § 6-85-210(b)(2)(A)(i), concerning continuing eligibility for scholarships, is amended to read as follows:

<< AR ST § 6-85-210 >>

(2)(A)(i) A recipient shall meet the satisfactory academic progress standards required to receive other financial aid at the approved institution of higher education where the recipient is enrolled, as determined by the ~~Department~~ **Division** of Higher Education in conjunction with the institution of higher education where the recipient is enrolled.

SECTION 2168. Arkansas Code § 6-85-210(b)(2)(A)(ii)(b), concerning continuing eligibility for scholarships, is amended to read as follows:

<< AR ST § 6-85-210 >>

(b) The ~~department~~ **division** shall notify the recipient of the loss of eligibility under this subdivision (b)(2)(A)(ii).

SECTION 2169. The introductory language of Arkansas Code § 6-85-210(b)(2)(B), concerning continuing eligibility for scholarships, is amended to read as follows:

<< AR ST § 6-85-210 >>

(B) The ~~department~~ **division** may approve a leave of absence for a reason that includes without limitation:

SECTION 2170. Arkansas Code § 6-85-210(b)(2)(B)(iv)(c), concerning continuing eligibility for scholarships, is amended to read as follows:

<< AR ST § 6-85-210 >>

(c) The ~~department~~ **division** shall release a scholarship hold if the ~~department~~ **division** determines that the student did not complete the commitment under the written agreement; or

SECTION 2171. Arkansas Code § 6-85-210(b)(2)(B)(v), concerning continuing eligibility for scholarships, is amended to read as follows:

<< AR ST § 6-85-210 >>

(v) Any other reason approved by the ~~department~~ **division**;

SECTION 2172. Arkansas Code § 6-85-210(b)(6), concerning continuing eligibility for scholarships, is amended to read as follows:

<< AR ST § 6-85-210 >>

(6) A recipient shall meet any other continuing eligibility criteria established by the ~~department~~ **division**.

SECTION 2173. Arkansas Code § 6-85-210(d), concerning continuing eligibility for scholarships, is amended to read as follows:

<< AR ST § 6-85-210 >>

(d) If a recipient is subject to losing a scholarship under subsection (c) of this section due to a catastrophic event experienced by the recipient or a family member of the recipient, the ~~department~~ **division** may waive the requirements of this section and determine the appropriate requirements for the recipient to either retain or regain the scholarship.

SECTION 2174. Arkansas Code § 6-85-211(b), concerning literacy tutoring, is amended to read as follows:

<< AR ST § 6-85-211 >>

(b) A recipient who agrees to volunteer as a literacy tutor under this section shall receive the prerequisite training in literacy and college readiness from an approved institution of higher education based on training modules developed by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 2175. Arkansas Code § 6-85-212(e)(1)(B)-(D), concerning scholarship award amounts, is amended to read as follows:

<< AR ST § 6-85-212 >>

(B) The ~~Department~~ **Division** of Higher Education shall not accept new applications for scholarships for current achiever students under § 6-85-209 after June 1, 2012.

(C)(i) To determine the correct scholarship award amount based on credit hours, a first-time recipient shall submit a current college or university transcript if the first-time recipient has earned any semester credit hours to the ~~Department~~ **Division** of Higher Education no later than a date determined by the ~~Department~~ **Division** of Higher Education prior to the academic year for which the first-time recipient will receive an initial scholarship award.

(ii) A first-time recipient who does not submit a transcript to the ~~Department~~ **Division** of Higher Education on or before June 1 shall receive the award amount under subdivision (e)(1)(A)(i) of this section.

(D)(i) An applicant may elect for the earned semester credit hours under subdivision (e)(1)(A) of this section to be only those semester credit hours earned after graduating from high school or obtaining a high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services**.

(ii) If an applicant makes the election under subdivision (e)(1)(D)(i) of this section, any semester credit hours earned through concurrent credit or any other method before graduating high school or obtaining a high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services** shall not be counted as earned semester credit hours for the purposes of determining a recipient's scholarship award amount under subdivision (e)(1)(A) of this section.

SECTION 2176. Arkansas Code § 6–85–212(e)(2) and (3), ¹² concerning scholarship award amounts, is amended to read as follows:

<< AR ST § 6–85–212 >>

(2)(A) The Department **Division** of Higher Education shall award an aggregate amount of scholarship awards to nontraditional students beginning with the 2017–2018 academic year of up to fifteen million dollars (\$15,000,000).

(B)(i) The Department **Division** of Higher Education shall return to the Office of the Arkansas Lottery the excess funding, if any, for scholarship awards under this subchapter the Department **Division** of Higher Education received under § 23–115–801.

(ii) The office shall deposit any funds received from the Department **Division** of Higher Education under this subdivision (e)(2)(B) into a trust account established under § 23–115–801(b).

(C) Priority for scholarships awarded to nontraditional students and current achiever students is based on:

(i) The applicant's level of progress toward completion of a certificate, an associate degree, a nursing diploma, a baccalaureate degree, or a graduate-level or professional degree; or

(ii) Other criteria established by the Department **Division** of Higher Education.

SECTION 2177. The introductory language of Arkansas Code § 6–85–212(e)(6), concerning scholarship award amounts, is amended to read as follows:

<< AR ST § 6–85–212 >>

(6) The Department **Division** of Higher Education shall give priority for a scholarship award to a full-time or part-time student:

SECTION 2178. Arkansas Code § 6–85–212(i)(1), concerning scholarship award amounts, is amended to read as follows:

<< AR ST § 6–85–212 >>

(i)(1) If the Department **Division** of Higher Education has less than a sufficient amount from net proceeds from the state lottery to provide for the scholarship commitments under this subchapter, the Department **Division** of Higher Education shall give priority for continued financial support under this subchapter to a student with continuing eligibility superior to first-time applicants.

SECTION 2179. The introductory language of Arkansas Code § 6–85–212(i)(2), concerning scholarship award amounts, is amended to read as follows:

<< AR ST § 6–85–212 >>

(2) If the funding is insufficient to fully fund the scholarships for students with continuing eligibility created under this subchapter, the Department **Division** of Higher Education shall award scholarships based upon the following criteria to students with continuing eligibility as follows:

SECTION 2180. Arkansas Code § 6-85-212(i)(2)(A)(i), concerning scholarship award amounts, is amended to read as follows:

<< AR ST § 6-85-212 >>

(i) In an area of critical workforce need as determined by the ~~Department~~ **Division** of Higher Education; or

SECTION 2181. Arkansas Code § 6-85-212(i)(3), concerning scholarship award amounts, is amended to read as follows:

<< AR ST § 6-85-212 >>

(3)(A) If after funding all students with continuing eligibility under this section funding is insufficient to fund all qualified first-time applicants, the ~~Department~~ **Division** of Higher Education shall award scholarships to first-time applicants in order of priority based upon the applicants' highest ACT or ACT equivalent scores.

(B) If after prioritizing first-time applicants based upon the applicants' ACT or ACT equivalent scores funding is insufficient to fund all applicants with like ACT or ACT equivalent scores, the ~~Department~~ **Division** of Higher Education shall determine who receives an award by random drawing.

SECTION 2182. Arkansas Code § 6-85-213 is amended to read as follows:

<< AR ST § 6-85-213 >>

6-85-213. Nursing school eligibility.

(a)(1) The General Assembly recognizes that the State of Arkansas is experiencing a critical shortage of nurses.

(2) It is the intent of this section to allow the ~~Department~~ **Division** of Higher Education the opportunity, under specific circumstances, to include an approved school of nursing that would not otherwise be an approved institution of higher education in the Arkansas Academic Challenge Scholarship Program.

(b) The ~~department~~ **division** shall make awards to applicants attending an approved school of nursing under this section if the recipient meets continuing eligibility requirements in § 6-85-210.

(c) The ~~department~~ **division** shall pay scholarship awards under this section only from nonlottery state educational resources.

SECTION 2183. Arkansas Code § 6-85-216 is amended to read as follows:

<< AR ST § 6-85-216 >>

6-85-216. Institution report to the department division.

(a)(1) An approved institution of higher education that enrolls students receiving scholarships under this subchapter annually shall provide information and semiannually provide updated information to the ~~Department~~ **Division** of Higher Education regarding all state-supported student financial assistance whether or not the state-supported student financial assistance is awarded under this subchapter.

(2) The information shall be provided in the form of individual student records and shall include without limitation information regarding:

- (A) State-supported student financial assistance;
- (B) Demographic student data; and
- (C) Disaggregated data on remedial courses.

(3)(A) An approved institution of higher education shall undertake the procedures necessary to ensure the collection and reporting of student information under this section.

(B) An approved institution of higher education may lose its approved status for receiving scholarship funds on behalf of a recipient under this subchapter if it fails to make a good-faith effort to comply with this section.

(C) In addition to the provisions of subdivision (a)(3)(B) of this section, an institution of higher education that does not comply with this section shall not be eligible to accept state aid from the Higher Education Grants Fund Account on behalf of a student.

(b) The ~~department~~ **division** shall establish by rule the:

- (1) Specific data required;
- (2) Manner of reporting the information required; and
- (3) Technology or software required for reporting.

(c) The ~~department~~ **division** shall use the information provided under this section to conduct the research and analysis needed to support the annual report of the Director of the ~~Department~~ **Division** of Higher Education to the Legislative Council under § 6-85-205.

SECTION 2184. Arkansas Code § 6-85-217 is amended to read as follows:

<< AR ST § 6-85-217 >>

6-85-217. Information provided to the Bureau of Legislative Research by the ~~Department~~ **Division of Higher Education.** The ~~Department~~ **Division** of Higher Education shall provide the following data to the Bureau of Legislative Research through the Arkansas Higher Education Information System under § 6-60-901 et seq., for the purpose of assisting the General Assembly with evaluation and analysis under this subchapter:

- (1) Existing individual student data;
- (2) Institutional data;
- (3) Financial data;
- (4) Aggregate student scholarship and grant application and award data;
- (5) Remedial course data; and
- (6) Other data needed to track scholarship and grant students receiving state-supported student financial assistance from year to year.

SECTION 2185. Arkansas Code § 6-85-219 is amended to read as follows:

<< AR ST § 6-85-219 >>

6-85-219. Reports to legislative committees.

(a)(1) Annually by November 1, the ~~Department~~ **Division** of Higher Education shall report to the Legislative Council in the manner and format that the Legislative Council requires on all state-supported student financial assistance awarded by the ~~department~~ **division** and awarded by approved institutions of higher education.

(2) The information provided shall include without limitation:

(A) Current year expenditures for scholarships and grants under the Arkansas Academic Challenge Scholarship Program — Part 2;

(B) Projected obligations for succeeding years from each scholarship or grant funding source;

(C) Fund balances for the:

(i) Higher Education Grants Fund Account; and

(ii) Trust accounts maintained by the Director of the ~~Department~~ **Division** of Higher Education to hold the net proceeds from the state lottery;

(D) An evaluation of whether the net proceeds from the state lottery available for the program supplement and do not supplant nonlottery state educational resources; and

(E) Other information that the Legislative Council or the General Assembly requests.

(b) Annually by December 1, the ~~department~~ **division** shall report to the Legislative Council its recommendations for changes to the program, including without limitation:

(1) Adjustments to the eligibility requirements of the program; and

(2) Increases or decreases in the amounts awarded for a scholarship under the program based on the amount of net proceeds from the state lottery available.

(c) Annually by December 31, the ~~department~~ **division** shall report to the Legislative Council the following information on recipients of the Arkansas Academic Challenge Scholarship Program — Part 2 who applied as of June 1:

(1) Race;

(2) Grade point average;

(3) Composite score on the ACT or the equivalent score on an ACT equivalent; and

(4) Family or individual income as reported on the student's Free Application for Federal Student Aid (FAFSA).

SECTION 2186. Arkansas Code § 6-85-220(a)(4), concerning the annual report by the Legislative Council, is amended to read as follows:

<< AR ST § 6-85-220 >>

(4) Review the annual report of the Director of the ~~Department~~ **Division** of Higher Education under § 6–85–219;

SECTION 2187. Arkansas Code § 6–85–221(a)(1), concerning a scholarship hold for a traditional student, is amended to read as follows:

<< AR ST § 6–85–221 >>

(a)(1) The ~~Department~~ **Division** of Higher Education may approve a scholarship hold for a traditional student for a period of twenty-four (24) months or less.

SECTION 2188. Arkansas Code § 6–85–221(a)(2)(D)(iii), concerning a scholarship hold for a traditional student, is amended to read as follows:

<< AR ST § 6–85–221 >>

(iii) The ~~department~~ **division** shall release a scholarship hold if the ~~department~~ **division** determines that the student did not complete the commitment under the written agreement.

SECTION 2189. The introductory language of Arkansas Code § 6–85–302(1), concerning the definition of “approved institution of higher education” under the laws governing the Arkansas Workforce Challenge Scholarship Program, is amended to read as follows:

<< AR ST § 6–85–302 >>

(1) “Approved institution of higher education” means an institution of higher education approved by the ~~Department~~ **Division** of Higher Education to participate in the Arkansas Workforce Challenge Scholarship Program and that is:

SECTION 2190. Arkansas Code § 6–85–303(a)(2)(A), concerning funding for Arkansas Workforce Challenge Scholarships, is amended to read as follows:

<< AR ST § 6–85–303 >>

(A) Transfers the funds requested by the ~~Department~~ **Division** of Higher Education under § 23–115–801(c)(2); and

SECTION 2191. Arkansas Code § 6–85–303(b)(1)(B), concerning funding for Arkansas Workforce Challenge Scholarships, is amended to read as follows:

<< AR ST § 6–85–303 >>

(B) The ~~department~~ **division** received a loan from the Scholarship Shortfall Reserve Trust Account under § 23–115–802 for the Arkansas Academic Challenge Scholarship Program — Part 2, § 6–85–201 et seq., for the previous academic year.

SECTION 2192. Arkansas Code § 6–85–305 is amended to read as follows:

<< AR ST § 6–85–305 >>

6–85–305. Distribution — Award amounts.

- (a) If funds are available, the ~~Department~~ **Division** of Higher Education shall distribute Arkansas Workforce Challenge Scholarships to all students who meet the requirements under § 6–85–304.
- (b)(1) The ~~department~~ **division** shall distribute scholarships from the funds available in an equal amount to every student eligible to receive a scholarship under this subchapter.
- (2) Except as provided in subsection (c) of this section, the maximum scholarship award a student may receive in an academic year shall be the lesser of:
- (A) Eight hundred dollars (\$800); or
 - (B)(i) The cost of the certificate program or program of study.
 - (ii) The cost of a certificate program or program of study shall include:
 - (a) Tuition, fees, or other charges;
 - (b) Textbooks or other course materials; and
 - (c) Equipment needed for a course.
- (3) The scholarship awards may be used for expenses included in the cost of the certificate program or program of study.
- (4) A scholarship under this section shall be only for the academic year for which it is awarded.
- (c)(1) If the ~~department~~ **division** has funds remaining after making the distributions under subsection (b) of this section, the ~~department~~ **division** shall distribute scholarships to students for the summer term of the academic year.
- (2) If funds are available under subdivision (c)(1) of this section, a student shall apply for a scholarship for a summer term by a date determined by the ~~department~~ **division** preceding the summer term.
- (3)(A) The ~~department~~ **division** shall distribute scholarships for a summer term in the same manner as under subsection (b) of this section.
- (B) Scholarships for a summer term may be used in the same manner as under subsection (b) of this section.
- (4) A student who received a scholarship under subsection (b) of this section may also receive a scholarship for a summer term.
- (d) The ~~department~~ **division** shall disburse scholarship awards on behalf of an eligible student directly to the approved institution of higher education.

SECTION 2193. Arkansas Code § 6–85–307 is amended to read as follows:

<< AR ST § 6–85–307 >>

6-85-307. Rules.

The ~~Department~~ **Division** of Higher Education shall promulgate rules to implement this subchapter.

SECTION 2194. Arkansas Code § 9-27-330(a)(4)(B)(i) and (ii), concerning the disposition, delinquency, and alternatives regarding a juvenile, are amended to read as follows:

<< AR ST § 9-27-330 >>

(B)(i) In addition, the court shall have the right as a term of probation to require the juvenile to attend school or make satisfactory progress toward attaining a high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services**.

(ii) The court shall have the right to revoke probation if the juvenile fails to regularly attend school or if satisfactory progress toward attaining a high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services** is not being made;

SECTION 2195. Arkansas Code § 9-27-332(a)(6)(A), concerning disposition and family in need services, is amended to read as follows:

<< AR ST § 9-27-332 >>

(6)(A) Place the juvenile on supervision terms, including without limitation requiring the juvenile to attend school or make satisfactory progress toward attaining a high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services**, requiring the juvenile to observe a curfew, and prohibiting the juvenile from possessing or using any alcohol or illegal drugs.

SECTION 2196. Arkansas Code § 9-28-113(a)(2)(A)(iii), concerning the continuity of educational services to foster children, is amended to read as follows:

<< AR ST § 9-28-113 >>

(iii) The ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 2197. Arkansas Code § 9-28-113(c)(2), concerning the continuity of educational services to foster children, is amended to read as follows:

<< AR ST § 9-28-113 >>

(2) Each school district shall forward the name of each foster care liaison and the contact information to the Special Education Section of the ~~Department of Education~~ **Division of Elementary and Secondary Education** at the beginning of each school year.

SECTION 2198. Arkansas Code § 9–28–113(c)(3)(C)(ii), concerning the continuity of educational services to foster children, is amended to read as follows:

<< AR ST § 9–28–113 >>

(ii) When a foster child changes school placement, the foster care liaison in the new school district shall request the child's educational record, as defined by rule of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, from the foster care liaison in the child's previous school district within three (3) school days.

SECTION 2199. Arkansas Code § 9–28–203(a)(10), concerning the powers and duties of the Division of Youth Services, is amended to read as follows:

<< AR ST § 9–28–203 >>

(10) Provide a system of education in residential facilities operated by the ~~division~~ **Division of Youth Services** that conform to the guidelines established by the ~~Department of Education~~ **Division of Elementary and Secondary Education** and as set forth in § 9–28–205; and

SECTION 2200. Arkansas Code § 9–28–205(c)(1) and (2), concerning youth services centers, are amended to read as follows:

<< AR ST § 9–28–205 >>

(c)(1)(A) The ~~division~~ **Division of Youth Services** shall establish a system of education that shall conform to the guidelines established by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(B) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall establish guidelines for the division's **Division of Youth Services'** system of education ~~no later than July 1, 2009~~ .

(C)(i) The ~~division~~ **Division of Youth Services**, with the support and assistance of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, shall conduct an education program assessment of each ~~division~~ **Division of Youth Services** facility and provide a written report of assessment findings to the ~~division~~ **Division of Youth Services** ~~no later than December 1, 2009~~ .

(ii) The ~~division~~ **Division of Youth Services**, with the support and assistance of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, shall submit a corrective action plan for each ~~division~~ **Division of Youth Services** facility to the Director of the Division of Youth Services, if needed, ~~no later than December 1, 2009~~ .

(iii) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall monitor the ~~division's~~ **Division of Youth Services'** system of education to ensure that the guidelines established by the ~~Department of Education~~ **Division of Elementary and Secondary Education** are satisfied by the ~~division's~~ **Division of Youth Services'** system of education.

(2) A student enrolled in the ~~division's~~ **Division of Youth Services'** system of education shall receive credit for courses that meet the guidelines established by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 2201. Arkansas Code § 9–28–205(d)–(f), concerning the youth services centers, are amended to read as follows:

<< AR ST § 9–28–205 >>

(d) The ~~division~~ **Division of Youth Services**, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and the ~~Department~~ **Division of Career and Technical Education** shall work collaboratively to prepare courses of study for the ~~division's~~ **Division of Youth Services'** system of education, including courses in career and technical education suited to the age and capacity of the youths.

(e) The Department of Human Services, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and the ~~Department~~ **Division of Career and Technical Education** may promulgate rules as necessary to administer the requirements of this section.

(f) The Department of Human Services and the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall report annually, beginning on March 1, 2010, to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and to the Senate Interim Committee on Children and Youth on the state of the ~~division's~~ **Division of Youth Services'** system of education.

SECTION 2202. Arkansas Code § 9–28–208(a)(4), concerning an order of commitment to the Division of Youth Services, is amended to read as follows:

<< AR ST § 9–28–208 >>

(4) The committed juvenile's school or current educational setting shall transmit the education record, as defined by rule of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, to the ~~division~~ **Division of Youth Services** within ten (10) school days from the request from the ~~division~~ **Division of Youth Services**.

SECTION 2203. Arkansas Code § 9–28–402(5)(A), concerning the definition of “boarding school” under the Child Welfare Agency Licensing Act, is amended to read as follows:

<< AR ST § 9–28–402 >>

(A) The institution is in operation for a period of time not to exceed the minimum number of weeks of classroom instruction required of schools accredited by the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 2204. Arkansas Code § 9–28–402(12)(C), concerning the definition of “boarding school” under the Child Welfare Agency Licensing Act, is amended to read as follows:

<< AR ST § 9–28–402 >>

(C) A facility or program owned or operated by or under contract with the ~~Department~~ **Division** of Correction;

SECTION 2205. Arkansas Code § 9–28–407(a)(5)(A)(iv), concerning the requirement and issuance of a license for the operation of a child welfare agency, is amended to read as follows:

<< AR ST § 9–28–407 >>

(iv) The licensee is operating a nontraditional program that is approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 2206. Arkansas Code § 9–28–407(h)(2)(E), concerning the requirement and issuance of a license for the operation of a child welfare agency, is amended to read as follows:

<< AR ST § 9–28–407 >>

(E) To the Division of Children and Family Services of the Department of Human Services and the ~~Department of Education~~ **Division of Elementary and Secondary Education**, including child welfare agency licensing specialists;

SECTION 2207. Arkansas Code § 9–28–1201(b)(2)(C), concerning the creation and membership of the Youth Justice Reform Board, is amended to read as follows:

<< AR ST § 9–28–1201 >>

(C) Representatives from the ~~Department of Education~~ **Division of Elementary and Secondary Education**, ~~Department~~ **Division** of Workforce Services, the Division of Children and Family Services of the Department of Human Services, and the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services;

SECTION 2208. Arkansas Code § 10–2–127(a)(2), concerning a fiscal impact statement developed by the Office of Economic and Tax Policy, is amended to read as follows:

<< AR ST § 10–2–127 >>

(2) The fiscal impact statement shall be developed by the Office of Economic and Tax Policy with the assistance of the ~~Department of Education~~ **Division of Elementary and Secondary Education** within the guidelines adopted by the House Committee on Education and the Senate Committee on Education, as applicable.

SECTION 2209. Arkansas Code § 10–3–317 is amended to read as follows:

<< AR ST § 10–3–317 >>

10–3–317. Disclosure of school district information and records — Access to electronic databases of the ~~Department of Education~~ **Division of Elementary and Secondary Education.**

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide the Bureau of Legislative Research with direct read-and-report-only access to the ~~department's~~ **division's** data warehouse concerning school districts and related records.

(2) In providing the bureau with the direct read-and-report-only access required under subdivision (a)(1) of this section, the department **division** shall take reasonable precautions, including electronic blocking or redacting, to prevent the disclosure of:

(A) Personally identifiable information of a student unless the parent or guardian of a minor student or a student who is no longer a minor consents in writing to the disclosure of personally identifiable information about that student; or

(B) Information that would cause the department **division** to lose funding under the provisions of 20 U.S.C. § 1232g, as it existed on January 1, 2007.

(3)(A) The department **division** shall make its staff reasonably accessible for consultation with bureau staff in developing and responding appropriately to bureau requests under this section.

(B) The bureau staff shall inform the department **division** of any warehouse data used in the preparation of reports and provide the department **division** at least one (1) working day to review any student-related warehouse data used in preparation of reports prior to publicly releasing that student-related data without individually identifiable information.

(b) The department **division** shall provide other information and records requested by the bureau as soon as possible and in whatever reasonable form requested.

SECTION 2210. Arkansas Code § 10–3–1003 is amended to read as follows:

<< AR ST § 10–3–1003 >>

10–3–1003. Routine collaboration with Department of Education **Division of Elementary and Secondary Education, Department **Division of Career and Technical Education**, and Department **Division of Higher Education**.**

(a) The House Committee on Education and the Senate Committee on Education between legislative sessions shall continually and routinely:

(1) Assess the needs and problems of:

(A) The public school districts of this state;

(B) Technical institutes and vocational-technical schools; and

(C) Institutions of higher education; and

(2) Engage in a constant dialogue with the:

(A) Department of Education **Division of Elementary and Secondary Education**;

(B) Department **Division of Career and Technical Education**; and

(C) Department **Division of Higher Education**.

(b) In order to assist the General Assembly, the Department of Education **Division of Elementary and Secondary Education**, the Department **Division of Career and Technical Education**, and the Department **Division of Higher Education** shall not only respond to the inquiries of the House Committee on Education and the Senate Committee on Education, but shall of their own motion alert the membership of the House Committee on Education and the Senate

Committee on Education to problems and needs of, and recommendations concerning, all public education endeavors in Arkansas.

SECTION 2211. Arkansas Code § 10–3–1405(d), concerning interdepartmental cooperation and assistance, is amended to read as follows:

<< AR ST § 10–3–1405 >>

(d)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall cooperate with and assist the office in carrying out its responsibilities by providing:

(A) The office with information requested by the office; and

(B) Assistance to the office as requested.

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide the office with any information regarding changes in the calculation of state aid to public school districts within seven (7) working days of a change.

SECTION 2212. Arkansas Code § 10–3–1602(2), concerning the duties of the Joint Interim Oversight Committee on Education Reform, is amended to read as follows:

<< AR ST § 10–3–1602 >>

(2) Reviewing policy issues affecting educational reform on or before November 15 of the year preceding a regular session and making recommendations concerning any necessary legislative changes proposed by school districts, cooperatives, institutions of higher education, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the State Board of Education, the ~~Department~~ **Division** of Career **and Technical** Education, the State Board of Career Education, the ~~Department~~ **Division** of Higher Education, the Arkansas Higher Education Coordinating Board, the Governor's office, and private institutions;

SECTION 2213. Arkansas Code § 10–3–1602(4), concerning the duties of the Joint Interim Oversight Committee on Education Reform, is amended to read as follows:

<< AR ST § 10–3–1602 >>

(4) Reviewing and assuring coordination between the school districts, cooperatives, institutions of higher education, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the State Board of Education, the ~~Department~~ **Division** of Career **and Technical** Education, the ~~State Board of Career Education,~~ **the Career Education and Workforce Development Board**, the ~~Department~~ **Division** of Higher Education, the Arkansas Higher Education Coordinating Board, the Governor's office, and private institutions; and

SECTION 2214. Arkansas Code § 10–3–2102(a)(4), concerning duties of the House Committee on Education and the Senate Committee on Education, is amended to read as follows:

<< AR ST § 10–3–2102 >>

(4) Evaluate the effectiveness of any program implemented by a school, a school district, an education service cooperative, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, or the State Board of Education and recommend necessary changes;

SECTION 2215. Arkansas Code § 10-3-2102(c), concerning duties of the House Committee on Education and the Senate Committee on Education, is amended to read as follows:

<< AR ST § 10-3-2102 >>

(c) The ~~Department of Education~~ **Division of Elementary and Secondary Education**, the ~~Department~~ **Division** of Career **and Technical** Education, and the ~~Department~~ **Division** of Higher Education shall provide the House Committee on Education and the Senate Committee on Education with assistance and information as requested by the House Committee on Education and the Senate Committee on Education.

SECTION 2216. Arkansas Code § 10-3-2102(f)(2), concerning duties of the House Committee on Education and the Senate Committee on Education, is amended to read as follows:

<< AR ST § 10-3-2102 >>

(2) Reviewing the Arkansas academic standards developed by the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 2217. Arkansas Code § 10-3-2103(a)(5) and (6), concerning the authority to investigate by the House Committee on Education and the Senate Committee on Educations, are amended to read as follows:

<< AR ST § 10-3-2103 >>

(5) The ~~Department of Education~~ **Division of Elementary and Secondary Education** or its successors; or

(6) The State Board of Education or any ~~department~~ **division** under the board's authority.

SECTION 2218. Arkansas Code § 10-3-2203(a), concerning assistance to the Academic Facilities Oversight Committee, is amended to read as follows:

<< AR ST § 10-3-2203 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education**, the ~~Department~~ **Division** of Career **and Technical** Education, the ~~Department~~ **Division** of Higher Education, the Division of Public School Academic Facilities and Transportation, and the Division of Public School Accountability shall provide the Academic Facilities Oversight Committee with assistance as requested by the Academic Facilities Oversight Committee.

SECTION 2219. Arkansas Code § 10-3-2602(b)(3), concerning the creation of the Arkansas Legislative Task Force on Autism, is amended to read as follows:

<< AR ST § 10-3-2602 >>

(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 2220. Arkansas Code § 10–3–2602(b)(7), concerning the creation of the Arkansas Legislative Task Force on Autism, is amended to read as follows:

<< AR ST § 10–3–2602 >>

(7) The Behavior Intervention Coordinator of the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 2221. 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:

<< AR ST § 10–3–2602 >>

(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 2222. Arkansas Code § 11–10–220(b)(2), concerning educational institutions, is amended to read as follows:

<< AR ST § 11–10–220 >>

(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 2223. 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:

<< AR ST § 12–18–909 >>

(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 shall forward all true reports of child maltreatment received from the Department of Human Services and the ~~Department~~ **Division** of Arkansas State Police when a child transfers from one (1) local educational agency to another and shall notify the Department of Human Services and the ~~Department~~ **Division** of Arkansas State Police of the child's new school and address, if known.

SECTION 2224. Arkansas Code § 12–18–909(d)(5), concerning the availability of true reports of child maltreatment from the central registry, is amended to read as follows:

<< AR ST § 12-18-909 >>

(5) This section does not prohibit the disclosure and discussion of confidential data, records, reports, or documents created, collected, or compiled by or on behalf of the Department of Human Services, the ~~Department~~ **Division** of Arkansas State Police, or other entity authorized under this chapter to perform investigations or provide services to children, individuals, or families in closed meetings conducted by the Child Maltreatment Investigations Oversight Committee under § 10-3-3201 et seq.

SECTION 2225. Arkansas Code § 12-18-909(e)(1), concerning the availability of true reports of child maltreatment from the central registry, is amended to read as follows:

<< AR ST § 12-18-909 >>

(e)(1) The Department of Human Services and the ~~Department~~ **Division** of Arkansas State Police may provide information, including protected health information, to a person or agency that provides services such as medical examination of, an assessment interview with, or diagnosis of, care for, treatment of, or supervision of a victim of child maltreatment, a juvenile offender, or an underaged juvenile offender.

SECTION 2226. Arkansas Code § 12-18-909(g)(6)(A), concerning the availability of true reports of child maltreatment from the central registry, is amended to read as follows:

<< AR ST § 12-18-909 >>

(6)(A) A person, agency, or organization engaged in a bona fide research or evaluation project having value as determined by the Department of Human Services and the ~~Department~~ **Division** of Arkansas State Police in future planning for programs for maltreated children or in developing policy directions.

SECTION 2227. Arkansas Code § 12-18-909(g)(23)(D), concerning the availability of true reports of child maltreatment from the central registry, is amended to read as follows:

<< AR ST § 12-18-909 >>

(D) The ~~Department of Education~~ **Division of Elementary and Secondary Education;**

SECTION 2228. Arkansas Code § 12-62-502(1), concerning the definition of “approved institution” under the Arkansas National Guard Student Loan Repayment Program, is amended to read as follows:

<< AR ST § 12-62-502 >>

(1) “Approved institution” means an Arkansas public or private postsecondary institution that is accredited or has achieved candidacy status from the North Central Association's Commission on Institutions of Higher Education or is a technical institute or comprehensive lifelong learning center under the supervision of the ~~Department of Workforce Education~~ **Division of Higher Education;**

SECTION 2229. Arkansas Code § 12-62-502(4)(G), concerning the definition of “approved institution” under the Arkansas National Guard Student Loan Repayment Program, is amended to read as follows:

<< AR ST § 12-62-502 >>

(G) Meets the current scholastic criteria of and is currently approved to receive a student loan under any state or federal program approved by the ~~Department~~ **Division** of Higher Education, and is, or will be upon approval of such loan, enrolled as a full-time student in good standing at an approved institution.

SECTION 2230. Arkansas Code § 12-62-505(b) and (c), concerning regulations regarding the Arkansas National Guard Student Loan Repayment Program, are amended to read as follows:

<< AR ST § 12-62-505 >>

(b) In establishing regulations relating to academic qualification, certification, recertification, and payment, the Adjutant General shall obtain the advice of the ~~Department~~ **Division** of Higher Education.

(c) To the extent possible, the ~~department~~ **division** shall include the program among other existing financial aid programs and shall monitor the program and enforce policies, as necessary, to conform with ~~department~~ **division** regulations.

SECTION 2231. Arkansas Code § 13-2-203(b), concerning the creation of the Arkansas State Library, is amended to read as follows:

<< AR ST § 13-2-203 >>

(b) The library shall function within the ~~department~~ **Department of Education** in the same manner as provided by agencies transferred to the principal Department of government by a type 1 transfer under the provisions of § 25-2-104 **pursuant to a cabinet-level transfer under § 25-43-105** and which shall be adequately funded and properly housed in a designated building at the seat of state government.

SECTION 2232. Arkansas Code § 13-2-204(a), concerning the qualifications of the State Librarian, is amended to read as follows:

<< AR ST § 13-2-204 >>

(a) The Arkansas State Library shall be headed by the State Librarian, to be appointed by the State Library Board, **in consultation with the Secretary of the Department of Education**. The State Librarian shall serve for such time and for such terms as the board may prescribe.

SECTION 2233. Arkansas Code § 13-2-206(d), concerning meetings of the State Library Board, is amended to read as follows:

<< AR ST § 13-2-206 >>

(d) The State Librarian shall serve as ~~Executive Secretary~~ **secretary** of the State Library Board, but without a vote thereon, and shall attend all of the board meetings and keep records thereof.

SECTION 2234. Arkansas Code § 13-2-207(8), concerning the powers and duties of the Arkansas State Library, is amended to read as follows:

<< AR ST § 13-2-207 >>

(8) Cooperate with the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the ~~Department~~ **Division** of Higher Education in devising plans for the development of libraries, in aiding librarians in their administration, in certification policies, and in formulating rules and regulations for the use of libraries;

SECTION 2235. Arkansas Code § 13-2-1002 is amended to read as follows:

<< AR ST § 13-2-1002 >>

13-2-1002. Creation.

(a)(1) The ~~Department~~ **Division** of Higher Education and the Arkansas State Library shall develop a digitized collection of information that includes information that is in the public domain, cleared for public distribution over the Internet, and to which students of public postsecondary schools in Arkansas have access.

(2) The digitized information under this subchapter shall be available for public access in at least one (1) location in each Arkansas county.

(b)(1) The ~~department~~ **division** and the library shall develop criteria regarding the:

- (A) Selection of materials to be digitized;
- (B) Need for public access; and
- (C) Means of cataloging or indexing the materials and digitizing them.

(2) Materials to be digitized may include:

- (A) Print documents;
- (B) Texts;
- (C) Manuscripts;
- (D) Photographs;
- (E) Art reproductions;
- (F) Postcards;
- (G) Illustrations;
- (H) Sound;
- (I) Film; and
- (J) Video.

(c) The ~~department~~ **division** shall make grants under this subchapter to assist public postsecondary institutions and other public or private entities in:

- (1) Selecting and digitizing information; and

(2) Developing and providing access to the digital collection in at least one (1) location in each Arkansas county.

(d)(1) Each postsecondary public institution in Arkansas shall cooperate with the ~~department~~ **division** in developing the digitized collection under this subchapter.

(2) Each postsecondary public institution and any entity receiving a grant under this subchapter shall develop a plan to inform the public regarding the use of the resources made available under this subchapter.

(3) Funds made available under this subchapter may be used by the receiving entities to obtain matching funds from federal programs.

SECTION 2236. Arkansas Code § 14–14–904(b)(1)(B), concerning time and place of the quorum court assembly, is amended to read as follows:

<< AR ST § 14–14–904 >>

(B) The Director of the Assessment Coordination ~~Department~~ **Division** may authorize an extension of up to sixty (60) days of the date for levy of taxes upon application by the county judge and county clerk of any county for good cause shown resulting from reappraisal or rollback of taxes.

SECTION 2237. Arkansas Code § 14–14–904(b)(5), concerning time and place of the quorum court assembly, is amended to read as follows:

<< AR ST § 14–14–904 >>

(5) If a determination is made under this subchapter or § 26–80–101 et seq. that the taxes levied by the quorum court are out of compliance with Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendment 11, Arkansas Constitution, Amendment 40, and Arkansas Constitution, Amendment 74, then upon notice from the Director of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the county court shall immediately issue an order directing the county clerk to change the millage levy to bring the taxes levied into compliance with Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendment 11, Arkansas Constitution, Amendment 40, and Arkansas Constitution, Amendment 74.

SECTION 2238. Arkansas Code § 14–144–103(1), concerning the definition of “accredited institution of higher education” under the Research Park Authority Act, is amended to read as follows:

<< AR ST § 14–144–103 >>

(1) “Accredited institution of higher education” means a four-year public college or university that offers bachelor's degrees and is recognized by the ~~Department~~ **Division** of Higher Education for credit;

SECTION 2239. Arkansas Code § 17–26–403(b)(2), concerning an application to operate and license for a school of cosmetology, is amended to read as follows:

<< AR ST § 17–26–403 >>

(2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall not be required to apply to the Department of Health for approval.

SECTION 2240. Arkansas Code § 17-27-103(b)(1), concerning exemptions regarding a licensed professional counselor, is amended to read as follows:

<< AR ST § 17-27-103 >>

(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 2241. Arkansas Code § 17-27-403(a)(1), concerning exemptions regarding licensed alcoholism and drug abuse counselors, is amended to read as follows:

<< AR ST § 17-27-403 >>

(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 2242. Arkansas Code § 17-53-106(a)(5), concerning the construction and applicability of the Health Educator Practice Act, is amended to read as follows:

<< AR ST § 17-53-106 >>

(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 2243. Arkansas Code § 17-86-303(a)(4)(A), concerning licensing of a massage therapist, is amended to read as follows:

<< AR ST § 17-86-303 >>

(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 2244. 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:

<< AR ST § 17-87-402 >>

(b) The ~~Department~~ **Division** of Higher Education shall:

SECTION 2245. Arkansas Code § 17-87-402(c), concerning institutions of higher education, challenge examinations, and validation examinations, is amended to read as follows:

<< AR ST § 17-87-402 >>

(c) All institutions of higher education in this state shall use standardized validation and challenge examinations or devise their own. All challenge examinations and all validation examinations shall be submitted to the ~~department~~ **division** for its approval. Upon the successful passing of a validation examination or challenge examination, the examinee shall be given credit for the course which is the subject of the test.

SECTION 2246. Arkansas Code § 17-90-111(a), concerning loans to optometry students, is amended to read as follows:

<< AR ST § 17-90-111 >>

(a) The ~~Department~~ **Division** of Higher Education shall provide a loan from the Higher Education Grants Fund Account that is in excess of the Southern Regional Education Board grant funds to any optometry student:

SECTION 2247. Arkansas Code § 17-90-111(b)(2)(B), concerning loans to optometry students, is amended to read as follows:

<< AR ST § 17-90-111 >>

(B) At a rate of interest determined by the ~~department~~ **division**, but not to exceed four percent (4%);

SECTION 2248. Arkansas Code § 17-90-111(b)(4)(C), concerning loans to optometry students, is amended to read as follows:

<< AR ST § 17-90-111 >>

(C) Extraordinary circumstances as determined by the ~~department~~ **division**; and

SECTION 2249. Arkansas Code § 17-91-101(a)(5), concerning the licensing requirements of an osteopathic physician, is amended to read as follows:

<< AR ST § 17-91-101 >>

(5) Is a graduate of an osteopathic college of medicine whose course of study has been recognized by the ~~Department of Education~~ **Division of Elementary and Secondary Education** of the American Osteopathic Association; and

SECTION 2250. Arkansas Code § 17-97-307(b)(4)(A), concerning professional titles, is amended to read as follows:

<< AR ST § 17-97-307 >>

(4)(A) Individuals who have been certified as school psychology specialists by the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall be permitted to use the title "school psychology specialist".

SECTION 2251. Arkansas Code § 17–100–104(4)(A), concerning exemptions regarding the Licensure Act of Speech–Language Pathologists and Audiologists, is amended to read as follows:

<< AR ST § 17–100–104 >>

(4)(A) A person from performing speech-language pathology or audiology services solely within the confines or under the jurisdiction of a public school system if that person holds a valid and current certificate as a speech therapist or speech-language pathologist issued by the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 2252. Arkansas Code § 19–1–701(b), concerning fiscal impact statements, is amended to read as follows:

<< AR ST § 19–1–701 >>

(b) A fiscal impact statement shall be developed with the guidance of the Office of Economic and Tax Policy of the Bureau of Legislative Research and with the approval of the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 2253. The introductory language of Arkansas Code § 19–4–604(d), concerning state-supported institutions of higher education, is amended to read as follows:

<< AR ST § 19–4–604 >>

(d) The Chief Fiscal Officer of the State, with the advice and consent of the ~~Department~~ **Division** of Higher Education, shall approve requested revisions in the proposed quarterly allotments if he or she shall determine that:

SECTION 2254. The introductory language of Arkansas Code § 19–4–604(i), concerning state-supported institutions of higher education, is amended to read as follows:

<< AR ST § 19–4–604 >>

(i) The ~~Department~~ **Division** of Higher Education shall coordinate with the Chief Fiscal Officer of the State for administering the provisions of this section.

SECTION 2255. Arkansas Code § 19–4–1402 is amended to read as follows:

<< AR ST § 19–4–1402 >>

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 timeline, scope, and cost of the total project.

(3) The disclosure statement shall not be construed as authorizing any:

(A) Additional work which is beyond the scope of the bid documents; or

(B) Payment exceeding the contract amount.

(d) Nothing in this section shall prohibit any agency, board, commission, or public institution of higher education from executing contract amendments.

SECTION 2256. Arkansas Code § 19–4–1416(e), concerning job order contracting, is amended to read as follows:

<< AR ST § 19–4–1416 >>

(e)(1) Executed counterparts of a contract entered into by a state agency with respect to job order projects 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.

(2)(A) 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 are exempt from the requirements of this section regarding the approval and filing of the contracts with the ~~division~~ **Building Authority Division**.

(B)(i) With the exception of those boards of trustees listed in subdivision (e)(2)(A) of this section, the governing board of a public institution of higher education is exempt from filing the contracts with the ~~division~~ **Building Authority Division** if it receives the approval of the ~~Department~~ **Division** of Higher Education.

(ii) Before granting approval, the ~~department~~ **Division of Higher Education** shall review and approve the policies and procedures regarding bidding and construction of capital improvement projects as adopted by the governing board of the public institution of higher education.

(3) A public institution of higher education that is exempt under this section may enter into an agreement with the ~~division~~ **Building Authority Division** to file its contracts with the ~~division~~ **Building Authority Division**.

SECTION 2257. The introductory language of Arkansas Code § 19–4–1604(c), concerning receiving a salary from two agencies, is amended to read as follows:

<< AR ST § 19–4–1604 >>

(c) A person drawing a salary or other compensation from a state agency or institution of higher education shall not be paid a salary or compensation from another institution of higher education except upon the written certification to and approval by the Director of the ~~Department~~ **Division** of Higher Education that the:

SECTION 2258. Arkansas Code § 19–4–1808 is amended to read as follows:

<< AR ST § 19–4–1808 >>

19–4–1808. Federal funds for vocational schools.

Reimbursements of federal funds to the ~~Department~~ **Division** of Career **and Technical** Education Fund Account shall be construed to be income of the fiscal year in which the reimbursements were received.

SECTION 2259. Arkansas Code § 19–5–304 is amended to read as follows:

<< AR ST § 19–5–304 >>

19–5–304. Education Fund.

The Education Fund shall consist of the following funds and fund accounts made available for the support of the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the ~~Department~~ **the Division** of Career **and Technical** Education, **the Adult Education Section of the Division of Workforce Services, and the Office of Skills Development**, and shall be used for the same purposes as set out for the following fund accounts:

(1) ~~Department of Education~~ **Division of Elementary and Secondary Education** Fund Account.

(A) The ~~Department of Education~~ **Division of Elementary and Secondary Education** Fund Account shall be used to provide for the maintenance, operation, and improvement of the ~~Department of Education~~ **Division of Elementary and Secondary Education** as created by § 6–10–101 et seq., and any other laws imposing functions, powers, and duties upon the State Board of Education, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and the Commissioner of **Elementary and Secondary Education**, including, but not necessarily limited to, history textbooks expenses, the Publishing Revolving Account, audio-visual services, textbooks operation, compact for education, including the state's membership, and the state's contribution to the Southern Regional Education Board.

(B) The ~~Department of Education~~ **Division of Elementary and Secondary Education** Fund Account shall consist of:

- (i) Those general revenues as may be provided by the Revenue Stabilization Law, § 19–5–101 et seq.; and
- (ii) Nonrevenue income derived from services provided by those programs supported from the ~~Department of Education~~ **Division of Elementary and Secondary Education** Fund Account, including any rental property located on the State Capitol grounds owned by the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

(2) ~~Department~~ **Division** of Career **and Technical** Education Fund Account.

(A) The ~~Department~~ **Division** of Career **and Technical** Education Fund Account shall be used to provide support for those programs placed under the direction of the Director of the ~~Department~~ **Division** of Career **and Technical** Education as authorized by §§ 6-11-101, 6-11-102, 25-6-101, 25-6-102, and Acts 1981, No. 64, § 4, and any other laws imposing functions, powers, and duties upon the ~~Career Education and Workforce Development Board~~ **State Board of Education with respect to career and technical education**, including without limitation the following:

- (i) Vocational, technical, and adult education;
- (ii) Adult basic education;
- (iii) Manpower training;
- (iv) Vocational standards;
- (v) Industry training programs; and
- (vi) Those functions, programs, and responsibilities transferred to the ~~Department~~ **Division** of Career **and Technical** Education, **the Adult Education Section of the Division of Workforce Services, and the Office of Skills Development**, as authorized by these statutes.

(B) The ~~Department~~ **Division** of Career **and Technical** Education Fund Account shall consist of those general revenues as may be provided by the Revenue Stabilization Law, § 19-5-101 et seq.;

(3) Educational Television Fund Account.

(A) The Educational Television Fund Account shall be used for the maintenance, operation, and improvement required by the Educational Television Division of the ~~Department of Education~~ **Division of Elementary and Secondary Education** in carrying out those powers, functions, and duties of the Arkansas Educational Television Commission as set out in § 6-3-101 et seq. or other duties imposed by law upon the commission.

(B) The Educational Television Fund Account shall consist of those general revenues as may be provided by law and nonrevenue income derived from services provided by the Educational Television Division and any other nonfederal grant funds provided by law;

(4) State Library Fund Account.

(A) The State Library Fund Account shall be used for the maintenance, operation, and improvement required by the Library Division of the Department of Education in carrying out the powers, functions, and duties as set out in § 13-2-201 et seq. or any other duties imposed by law upon the State Library Commission, which were transferred to the Department of Education by §§ 6-11-101, 6-11-102, and 25-6-102.

(B) The State Library Fund Account shall consist of those general revenues as may be provided by law and nonrevenue income derived from services provided by the Library Division of the Department of Education and any other nonfederal grant funds provided by law;

(5) School for the Blind Fund Account.

(A) The School for the Blind Fund Account shall be used for the maintenance, operation, and improvement required by the Arkansas School for the Blind in carrying out those powers, functions, and duties as set out in § 6-43-101 et seq. and § 6-43-201 et seq.

(B) The School for the Blind Fund Account shall consist of those general revenues as may be provided by law and nonrevenue income derived from services provided by the Arkansas School for the Blind and any other nonfederal grant funds provided by law.

(C) Federal reimbursement funds received on account of vocational education programs conducted by the Arkansas School for the Blind shall not be deposited into the School for the Blind Fund Account;

(6) School for the Deaf Fund Account.

(A) The School for the Deaf Fund Account shall be used for the maintenance, operation, and improvement required by the Arkansas School for the Deaf in carrying out the powers, functions, and duties as set out in § 6–43–301 et seq. or other duties imposed by law upon the Arkansas School for the Deaf, which were transferred to the Department of Education by §§ 6–11–101, 6–11–102, and 25–6–102.

(B) The School for the Deaf Fund Account shall consist of those general revenues as may be provided by law and nonrevenue income derived from services provided by the Arkansas School for the Deaf and any other nonfederal grant funds provided by law.

(C) Federal reimbursement funds received on account of vocational education programs conducted by the Arkansas School for the Deaf shall not be deposited into the School for the Deaf Fund Account;

(7) Rehabilitation Services Fund Account.

(A) The Rehabilitation Services Fund Account shall be used for the maintenance, operation, and improvement required by the Arkansas Rehabilitation Services of the ~~Department of Career Education~~ **Division of Workforce Services** in carrying out the powers, functions, and duties as set out in § 6–52–101 et seq., the Rehabilitation Act of Arkansas, § 20–79–201 et seq., and § 25–30–201 et seq., and for the adult handicapped program at the Arkansas Health Center.

(B) The Rehabilitation Services Fund Account shall consist of:

(i) Those general revenues as may be provided by law;

(ii) Nonrevenue income derived from services provided by rehabilitation programs of the Arkansas Rehabilitation Services of the ~~Department of Career Education~~ **Division of Workforce Services**; and

(iii) Any other nonfederal grant funds provided by law;

(8) Technical Institute and Other Education Fund Accounts.

(A) The Crowley's Ridge Technical Institute Fund Account shall be used for the maintenance, operation, and improvement of Crowley's Ridge Technical Institute. The Crowley's Ridge Technical Institute Fund Account shall consist of:

(i) Those general revenues as may be provided by law; and

(ii) Any other funds made available for the support of Crowley's Ridge Technical Institute which are required to be deposited into the State Treasury by law.

(B) The Northwest Technical Institute Fund Account shall be used for the maintenance, operation, and improvement of Northwest Technical Institute. The Northwest Technical Institute Fund Account shall consist of:

(i) Those general revenues as may be provided by law; and

(ii) Any other funds made available for the support of Northwest Technical Institute which are required to be deposited into the State Treasury by law.

(C) The Riverside Vocational Technical School Fund Account shall be used for the maintenance, operation, and improvement of Riverside Vocational and Technical School. The Riverside Vocational Technical School Fund Account shall consist of:

(i) Those general revenues as may be provided by law; and

(ii) Any other funds made available for the support of Riverside Vocational Technical School which are required to be deposited into the State Treasury by law;

(9) Educational Facilities Partnership Fund Account.

(A) The Educational Facilities Partnership Fund Account shall be used for distribution of grants for programs providing academic school facility and transportation assistance to the public school districts as may be provided by law.

(B) The Educational Facilities Partnership Fund Account shall consist of:

(i) Those general revenues as may be provided by law;

(ii) Moneys transferred from the General Improvement Fund; and

(iii) Any other moneys as may be provided by law; and

(10) Division of Public School Academic Facilities and Transportation Fund Account.

(A) The Division of Public School Academic Facilities and Transportation Fund Account shall be used for the maintenance, operation, and improvement required by the Division of Public School Academic Facilities and Transportation of the ~~Department of Education~~ **Division of Elementary and Secondary Education** as may be provided by law.

(B) The Division of Public School Academic Facilities and Transportation Fund Account shall consist of:

(i) Those general revenues as may be provided by law; and

(ii) Any other funds made available for the support of the Division of Public School Academic Facilities and Transportation of the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 2260. Arkansas Code § 19–5–305 is amended to read as follows:

<< AR ST § 19–5–305 >>

19–5–305. Public School Fund.

(a) The Public School Fund shall consist of the following fund accounts and funds made available for the support of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, the Arkansas State Library of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and the ~~Department~~ **Division** of Career **and Technical** Education and shall be used for the same purposes as set out for the following fund accounts:

(1) ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account. The ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account shall be

used for grants and aids for the programs administered by the ~~Department of Education~~ **Division of Elementary and Secondary Education** as authorized by law;

(2) ~~Department~~ **Division** of Career **and Technical** Education Public School Fund Account. The ~~Department~~ **Division** of Career **and Technical** Education Public School Fund Account shall be used for grants and aids for the programs administered by the ~~Department~~ **Division** of Career **and Technical** Education, **Adult Education Section of the Division of Workforce Services, Office of Skills Development**, consisting of, but not limited to:

(A) General adult education grants;

(B) Adult basic education grants;

(C) Manpower development and training grants;

(D) Vocational–technical and adult education; and

(E) Such other grants and aids as may be authorized by law for disbursement by the ~~Department~~ **Division** of Career **and Technical** Education, **Adult Education Section of the Division of Workforce Services, Office of Skills Development**; and

(3) State Library Public School Fund Account. The State Library Public School Fund Account shall be used for State Aid to Public Libraries as administered by the Arkansas State Library of the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

(b) The Public School Fund shall consist of those moneys as may be provided by:

(1) The Revenue Stabilization Law, § 19–5–101 et seq.;

(2) Any federal mineral leasing funds, federal forest reserve funds, federal flood control funds, or any other similar turnback funds in the State Treasury for which the eligible county or school district cannot be identified;

(3) Fines collected pursuant to § 6–21–410 under the Free Textbook Act of 1975, § 6–21–401 et seq.;

(4) Funds remitted by county treasurers for those school districts which have local revenue per student in excess of the local base per student, as set out in § 26–80–101(c);

(5) Amusement machine revenues up to and including thirty thousand dollars (\$30,000), as set out in § 26–57–407;

(6) Twenty–five percent (25%) of additional rental vehicle tax revenues under § 26–63–302, to be used exclusively for teacher salaries; and

(7) Such other funds as may be authorized by law.

(c)(1) There is authorized a transfer of up to two hundred thousand dollars (\$200,000) per year from the Public School Fund to the ~~Department of Education~~ **Division of Elementary and Secondary Education** Fund Account or the ~~Department~~ **Division** of Career **and Technical** Education Fund Account, or a portion thereof to both, by the Treasurer of State and the Chief Fiscal Officer of the State, upon certification as to the amount required by the Commissioner of **Elementary and Secondary** Education or by the Director of the ~~Department~~ **Division** of Career **and Technical** Education, or both, to the Chief Fiscal Officer of the State.

(2) This transfer shall be used to provide additional support for the administration of the handicapped children program and the vocational-technical and adult education program.

SECTION 2261. The introductory language of Arkansas Code § 19–5–501(b)(1)(E), concerning the Budget Stabilization Trust Fund, is amended to read as follows:

<< AR ST § 19–5–501 >>

(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 2262. Arkansas Code § 19–5–501(b)(1)(F), concerning the Budget Stabilization Trust Fund, is amended to read as follows:

<< AR ST § 19–5–501 >>

(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 agency or program is established by the General Assembly which is to be supported solely from other than general revenues or federal funds, the Chief Fiscal Officer of the State may make a temporary loan from the Budget Stabilization Trust Fund to the agency or program to the extent necessary for carrying out the intent of the enabling legislation. The amount of the loan shall be determined by the Chief Fiscal Officer of the State, and the loans shall be repaid in full by June 30 of the fiscal year in which the loan was made;

SECTION 2263. Arkansas Code § 19–5–501(b)(3), concerning the Budget Stabilization Trust Fund, is amended to read as follows:

<< AR ST § 19–5–501 >>

(3) Making transfers to the ~~State Military Department~~ **Department of the Military** Fund Account of the State General Government Fund as established in § 19–5–302(2)(A)–(C) for the purpose of providing reimbursement or immediate funding for expenses incurred by the ~~State Military Department~~ **Department of the Military** on behalf of the Arkansas National Guard emergency call-up appropriation;

SECTION 2264. Arkansas Code § 19–5–502(c), concerning loans from the Budget Stabilization Trust Fund, is amended to read as follows:

<< AR ST § 19–5–502 >>

(c) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall have no authority to request loans from the Budget Stabilization Trust Fund to provide moneys for distribution to public school districts in this state, nor to write warrants payable from any funds borrowed from the Budget Stabilization Trust Fund, for making monthly payments to school districts in this state earlier than the fifth day prior to the end of the month.

SECTION 2265. Arkansas Code § 19–5–907(b), concerning the Revolving Loan Fund, is amended to read as follows:

<< AR ST § 19–5–907 >>

(b) The fund shall consist of the repayment of moneys loaned or invested through the Revolving Loan Program of the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 2266. Arkansas Code § 19–5–960(b), concerning the Private Career School Student Protection Trust Fund, is amended to read as follows:

<< AR ST § 19–5–960 >>

(b) The fund shall consist of a fee to be set by the ~~Department~~ **Division** of Higher Education in consultation with the State Board of Private Career Education as provided in § 6–51–607, there to be used for paying claims and other expenses as set out in § 6–51–607.

SECTION 2267. Arkansas Code § 19–5–1004(c), concerning the General Revenue Allotment Reserve Fund, is amended to read as follows:

<< AR ST § 19–5–1004 >>

(c) Any funds that remain in the ~~Department~~ **Division** of Career **and Technical** Education Fund Account or the fund accounts created in § 19–5–304(8) at the end of a fiscal year due to the provisions of this section shall be transferred by the Chief Fiscal Officer of the State to the General Improvement Fund or its successor fund or fund accounts, there to be used exclusively to provide additional funding for appropriations for the applicable vocational and technical schools, technical institutes, or comprehensive lifelong learning centers, that are made payable from the General Improvement Fund or its successor fund or fund accounts.

SECTION 2268. Arkansas Code § 19–5–1018(d), concerning the creation of the Higher Education Building Maintenance Fund, is amended to read as follows:

<< AR ST § 19–5–1018 >>

(d) Those funds accruing to the Higher Education Building Maintenance Fund under the provisions of this section shall be disbursed by the Director of the ~~Department~~ **Division** of Higher Education in accordance with the recommendations of the Arkansas Higher Education Coordinating Board, but only after the board shall determine the projects and priorities for which the funds shall be used, and after the board shall have sought the advice of the Legislative Council with respect to them.

SECTION 2269. Arkansas Code § 19–5–1036(b), concerning the Research Development Fund, is amended to read as follows:

<< AR ST § 19–5–1036 >>

(b) The Research Development Fund shall consist of funds transferred from the Higher Education Building Maintenance Fund and any other moneys provided by the General Assembly, there to be used for the administration and operations of the Arkansas Research Development Program of the ~~Department~~ **Division** of Higher Education, as set out in the Arkansas Research Development Act, § 6–61–801 et seq.

SECTION 2270. 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:

<< AR ST § 19–5–1076 >>

(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 2271. Arkansas Code § 19–5–1076(d), concerning the Higher Education Tuition Adjustment Fund, is amended to read as follows:

<< AR ST § 19–5–1076 >>

(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 2272. Arkansas Code § 19–5–1114(b)(2), concerning the Arkansas Construction Industry Craft Training Trust Fund, is amended to read as follows:

<< AR ST § 19–5–1114 >>

(2) The fund shall be used to support training programs set out in the Arkansas Construction Industry Craft Training Act, § 6-55-101 et seq., administered by the ~~Department of Career Education~~ **Office of Skills Development** and the State Apprenticeship Coordination Steering Committee.

SECTION 2273. Arkansas Code § 19-5-1227(c) and (d), concerning the Educational Adequacy Fund, are amended to read as follows:

<< AR ST § 19-5-1227 >>

(c)(1) The Chief Fiscal Officer of the State will determine, from time to time, the amount of funds required from the Educational Adequacy Fund which, when added to other resources available to the ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account of the Public School Fund and the ~~Department of Education~~ **Division of Elementary and Secondary Education** Fund Account of the Education Fund, is needed to fulfill the financial obligation of the state to provide an adequate educational system as authorized by law and shall certify the amounts to the Treasurer of State.

(2) At the end of each month, the Treasurer of State shall transfer all moneys available from the Educational Adequacy Fund to the ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account of the Public School Fund and to the ~~Department of Education~~ **Division of Elementary and Secondary Education** Fund Account of the Education Fund until the sum of all transfers from the Educational Adequacy Fund equals the amounts determined in subdivision (c)(1) of this section, there to be used as determined by law.

(d) In the event the Chief Fiscal Officer of the State determines that the transfers from the Educational Adequacy Fund, when added to the other resources available to the ~~Department of Education~~ **Division of Elementary and Secondary Education** Public School Fund Account of the Public School Fund, are not sufficient to meet the state's financial obligation to provide an adequate educational system as authorized by law, the additional amount required shall be transferred from the other funds and fund accounts, except the Educational Facilities Partnership Fund Account, within §§ 19-5-402 and 19-5-404(a) [repealed] based upon the proportion that each of the remaining fund and fund accounts, excluding the Educational Facilities Partnership Fund Account, bears to the total of the remaining funds and fund accounts in §§ 19-5-402 and 19-5-404(a) [repealed].

SECTION 2274. Arkansas Code § 19-5-1257(c), concerning the Workforce Initiative Act of 2015 Fund, is amended to read as follows:

<< AR ST § 19-5-1257 >>

(c) The fund shall be used by the ~~Department~~ **Division** of Higher Education for distributing grants to programs identified under § 6-60-107.

SECTION 2275. Arkansas Code § 19-6-462 is amended to read as follows:

<< AR ST § 19-6-462 >>

19-6-462. Private Career Education Fund.

The Private Career Education Fund shall consist of those special revenues as specified in § 19-6-301(24), there to be used for the maintenance and operations of the ~~Department~~ **Division** of Higher Education concerning the State Board of Private Career Education in carrying out the functions, powers, and duties as set out in § 6-51-601 et seq.

SECTION 2276. Arkansas Code § 19–7–103(b)(1) and (2), concerning the control of college study programs and basic educational grants, are amended to read as follows:

<< AR ST § 19–7–103 >>

(b)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall issue rules for the purpose of administering the funds received for college work-study programs and basic educational opportunity grants for the vocational-technical schools.

(2) The ~~Department~~ **Division** of Higher Education shall issue rules for the purpose of administering the funds received by state colleges and universities.

SECTION 2277. Arkansas Code § 19–11–1004(c)(3)(A), concerning the restrictions on contracts, is amended to read as follows:

<< AR ST § 19–11–1004 >>

(A) The institution of higher education requests and receives written approval from the Director of the ~~Department~~ **Division** of Higher Education concerning the amount of additional compensation to be paid to any employee; and

SECTION 2278. Arkansas Code § 20–7–134(c), concerning the powers and duties of the Child Health Advisory Committee, is amended to read as follows:

<< AR ST § 20–7–134 >>

(c) The committee shall examine the progress of the Arkansas Coordinated School Health Program and make recommendations to the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Department of Health concerning the implementation of the Arkansas Coordinated School Health Program.

SECTION 2279. The introductory language of Arkansas Code § 20–7–135(b), concerning the implementation of nutrition and physical activity standards, is amended to read as follows:

<< AR ST § 20–7–135 >>

(b) The Department of Health in consultation with the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall:

SECTION 2280. Arkansas Code § 20–7–135(b)(2), concerning the implementation of nutrition and physical activity standards, is amended to read as follows:

<< AR ST § 20–7–135 >>

(2) Employ one (1) statewide health promotion consultant to be housed within the ~~Department of Education~~ **Division of Elementary and Secondary Education** if funds are available;

SECTION 2281. The introductory language of Arkansas Code § 20–7–135(d), concerning the implementation of nutrition and physical activity standards, is amended to read as follows:

<< AR ST § 20–7–135 >>

(d) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall:

SECTION 2282. Arkansas Code § 20–7–135(d)(1), concerning the implementation of nutrition and physical activity standards, is amended to read as follows:

<< AR ST § 20–7–135 >>

(1) Begin the implementation of standards developed by the ~~committee~~ **Child Health Advisory Committee** and approved by the ~~Department of Education~~ **Division of Elementary and Secondary Education**; and

SECTION 2283. Arkansas Code § 20–7–135(e)(1)(B)(i), concerning the implementation of nutrition and physical activity standards, is amended to read as follows:

<< AR ST § 20–7–135 >>

(i) Assisting with the implementation of nutrition and physical activity standards developed by the school nutrition and physical activity advisory committee with the approval of the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the State Board of Health;

SECTION 2284. Arkansas Code § 20–7–135(e)(2), concerning the implementation of nutrition and physical activity standards, is amended to read as follows:

<< AR ST § 20–7–135 >>

(2) Begin the implementation of standards developed by the ~~committee~~ **Child Health Advisory Committee** with the approval of the ~~Department of Education~~ **Division of Elementary and Secondary Education** and the State Board of Health; and

SECTION 2285. The introductory language of Arkansas Code § 20–7–135(f)(1),¹³ concerning the implementation of nutrition and physical activity standards, is amended to read as follows:

<< AR ST § 20–7–135 >>

(f)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Department of Health shall report annually on progress in implementing nutrition and physical education standards to the:

SECTION 2286. Arkansas Code § 20–15–902 is amended to read as follows:

<< AR ST § 20–15–902 >>

20–15–902. Counseling — Seminars.

The Department of Education **Division of Elementary and Secondary Education**, the University of Arkansas for Medical Sciences, and the Department of Health shall jointly provide counseling and shall also conduct public seminars designed to educate the public regarding acquired immune deficiency syndrome (AIDS).

SECTION 2287. Arkansas Code § 20–15–1106 is amended to read as follows:

<< AR ST § 20–15–1106 >>

20–15–1106. Coordination of services.

The Department of Health, the Department of Education **Division of Elementary and Secondary Education**, and the Department of Human Services shall work cooperatively and develop a plan to coordinate early educational and rehabilitative services for newborn infants identified as hearing impaired.

SECTION 2288. Arkansas Code § 20–27–1501(3)(D), concerning body piercing, branding, and tattooing, is amended to read as follows:

<< AR ST § 20–27–1501 >>

(D) Is a registered instructor for the specified field of *body art with the Department of ~~Higher Education~~ Health*;

SECTION 2289. Arkansas Code § 20–27–1503(a)(2), concerning the powers of the Department of Health to license, regulate, and inspect for health hazards, is amended to read as follows:

<< AR ST § 20–27–1503 >>

(2) A body art training facility shall be licensed by the *Department of Health as an establishment and by the Department of ~~Higher Education~~ as an approved body art training facility*.

SECTION 2290. Arkansas Code § 20–27–1507(a) and (b), concerning the education of an artist in training, are amended to read as follows:

<< AR ST § 20–27–1507 >>

(a) An artist trainer shall be a registered instructor in a school *licensed by the Department of ~~Higher Education under § 6–51–601 et seq~~ Health*.

(b) In consultation with the State Board of Private Career Education, the Department **Division** of Higher Education shall develop standards to determine:

- (1) The maximum number of artists in training in a training facility at one time; and
- (2) The length of the program in hours and across a range of months.

SECTION 2291. Arkansas Code § 20–27–1507(c)(2)(A), concerning the education of an artist in training, is amended to read as follows:

<< AR ST § 20–27–1507 >>

(2)(A) The artist trainer shall maintain a training log of the clock hours completed by the artist in training on forms approved by the *Department of Higher Education* **Health**.

SECTION 2292. Arkansas Code § 20–27–1507(e), concerning the education of an artist in training, is amended to read as follows:

<< AR ST § 20–27–1507 >>

(e) *The Department of Higher Education* **Health** shall adopt a minimum curriculum for each area of body art training that shall be followed by all artist trainers, artists in training, and body art training facilities.

SECTION 2293. Arkansas Code § 20–45–302(c)(3), concerning the creation and purpose of the Arkansas Suicide Prevention Council, is amended to read as follows:

<< AR ST § 20–45–302 >>

(3) A representative of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, to be designated by the Commissioner of **Elementary and Secondary** Education;

SECTION 2294. Arkansas Code § 20–45–302(c)(6) and (7), concerning the creation and purpose of the Arkansas Suicide Prevention Council, are amended to read as follows:

<< AR ST § 20–45–302 >>

(6) A representative of law enforcement, to be designated by the Director of the ~~Department~~ **Division** of Arkansas State Police;

(7) A representative from higher education, to be designated by the Director of the ~~Department~~ **Division** of Higher Education;

SECTION 2295. The introductory language of Arkansas Code § 20–47–505(a)(2), concerning the creation of the Child and Adolescent Service System Program Coordinating Council, is amended to read as follows:

<< AR ST § 20–47–505 >>

(2) The council shall include the following persons to be selected and appointed by the Commissioner of **Elementary and Secondary** Education and the ~~Director~~ **Secretary** of the Department of Human Services:

SECTION 2296. Arkansas Code § 20–47–505(a)(2)(E)(i), concerning the creation of the Child and Adolescent Service System Program Coordinating Council, is amended to read as follows:

<< AR ST § 20–47–505 >>

(E)(i) One (1) or more representatives from specific divisions or agencies in the Department of Human Services and the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 2297. Arkansas Code § 20–47–508(e), concerning the evaluation and treatment of children suspected of having emotional disturbances, is amended to read as follows:

<< AR ST § 20–47–508 >>

(e) If after screening and assessment or collaborative evaluations it is determined that a child with emotional disturbance needs multiagency services, then initial and subsequent individualized multiagency service plans for the child and the child's family shall be jointly developed by the appropriate local or regional representatives of the community mental health centers, of the Department of Human Services county office, of the Department of Health, of the Special Education Section of the ~~Department of Education~~ **Division of Elementary and Secondary Education**, of the local school district, and of any other service provider identified to meet the needs of the child and his or her family. The individualized service plan shall reflect an integrated service delivery that specifies services or programs with funding to be provided by each agency. The service plan shall also designate responsibility for case management.

SECTION 2298. Arkansas Code § 20–64–704(3), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, is amended to read as follows:

<< AR ST § 20–64–704 >>

(3) Promote or conduct educational programs on alcoholism, purchase and provide books, films, and other educational material, furnish funds or grants to the ~~Department of Education~~ **Division of Elementary and Secondary Education**, institutions of higher education, and medical schools for study and research, and modernize instruction regarding the problems of alcoholism;

SECTION 2299. The introductory language of Arkansas Code § 20–64–704(5), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services, is amended to read as follows:

<< AR ST § 20–64–704 >>

(5) While the ~~division~~ **Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services** necessarily must, and does, have discretion as to proportions in which it allocates funds to the various aspects of this problem, it is contemplated and intended that the ~~division~~ **Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services** shall make every reasonable effort not to concentrate too largely on any one (1) phase of the problem at the expense or to the detriment of other phases. For example, but not limited to, the following phases:

SECTION 2300. Arkansas Code § 20–76–112 is amended to read as follows:

<< AR ST § 20–76–112 >>

20–76–112. Human Services Workers in the Schools Program.

(a) The Human Services Workers in the Schools Program is established as a collaborative effort among the Division of Children and Family Services of the Department of Human Services, the Arkansas Workforce Development Board, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, and local school districts. The Human Services Workers in the Schools Program is designed to help children and families by:

(1) Promoting safety of children and strengthening of families;

- (2) Supporting the community's capacity to produce children who are healthy, children who are in supportive, nurturing, and healthy families, and children who succeed in school; and
- (3) Promoting the ~~division's~~ **Division of Children and Family Services'** family preservation philosophy and family-centered practice.
- (b) Upon approval of the board, the ~~division~~ **Division of Children and Family Services** shall enter into contracts with local school districts to provide funding for the maximum number of human services workers.
- (c) A human services worker shall have a bachelor's degree or a master's degree in social work or a related field and shall provide the following services according to skills and training:
- (1) Crisis intervention;
 - (2) School conferences and in-service training;
 - (3) Home visits;
 - (4) Transportation for family and student group counseling;
 - (5) Parent training and activities;
 - (6) Supportive service referrals;
 - (7) Individualized coping and conflict management skills; and
 - (8) Assessment of family and student needs.
- (d)(1) Funding for human services workers shall be targeted to schools with eighty percent (80%) or more of their children eligible for the Free and Reduced Lunch Program under the National School Lunch Act, 42 U.S.C. § 1751 et seq.
- (2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** and the ~~division~~ **Division of Children and Family Services** shall develop criteria to prioritize eligibility for the Human Services Workers in the Schools Program.
- (e) The Coordinated Health Services Section of the ~~Department of Education~~ **Division of Elementary and Secondary Education** shall evaluate the Human Services Workers in the Schools Program annually in coordination with the ~~division~~ **Division of Children and Family Services**, the board, and the local school districts that hold contracts.
- (f) A parent or a student has the option to refuse any services recommended under the Human Services Workers in the Schools Program.

SECTION 2301. Arkansas Code § 20-77-1604(c)(1)(A), concerning the creation of the Arkansas Youth Suicide Prevention Task Force, is amended to read as follows:

<< AR ST § 20-77-1604 >>

(c)(1)(A) The Governor shall consult the ~~Department of Education~~ **Division of Elementary and Secondary Education** before appointing a student member.

SECTION 2302. Arkansas Code § 20-77-1606(a)(2), concerning the Arkansas Youth Suicide Prevention Task Force meetings, is amended to read as follows:

<< AR ST § 20-77-1606 >>

(2) The Commissioner of **Elementary and Secondary** Education shall call the first meeting of the task force no later than thirty (30) days after all of the members are appointed to the task force.

SECTION 2303. Arkansas Code § 20-77-1606(e)(1), concerning the Arkansas Youth Suicide Prevention Task Force meetings, is amended to read as follows:

<< AR ST § 20-77-1606 >>

(e)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall provide staff and office space to the task force.

SECTION 2304. The introductory language of Arkansas Code § 20-78-205(a), concerning the creation of the Division of Child Care and Early Childhood Education, is amended to read as follows:

<< AR ST § 20-78-205 >>

(a) There is created the Division of Child Care and Early Childhood Education within the Department of Human Services. In creating the ~~division~~ **Division of Child Care and Early Childhood Education**, the General Assembly intends for the following to be maintained and enhanced:

SECTION 2305. The introductory language of Arkansas Code § 20-78-205(b), concerning the creation of the Division of Child Care and Early Childhood Education, is amended to read as follows:

<< AR ST § 20-78-205 >>

(b) The ~~division~~ **Division of Child Care and Early Childhood Education** shall have the following duties:

SECTION 2306. Arkansas Code § 20-78-205(b)(2), concerning the creation of the Division of Child Care and Early Childhood Education, is amended to read as follows:

<< AR ST § 20-78-205 >>

(2) Administration of the Arkansas Better Chance Program, under interagency agreement with the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 2307. Arkansas Code § 20-78-205(c)(1), concerning the creation of the Division of Child Care and Early Childhood Education, is amended to read as follows:

<< AR ST § 20-78-205 >>

(c)(1) In addition to any other rights, powers, functions, and duties granted by law to the ~~division~~ **Division of Child Care and Early Childhood Education**, the Department of Human Services is hereby authorized to promote and cooperate in the establishment of a foundation under the Arkansas nonprofit corporation law and to accept support and assistance in the

form of money, property, or otherwise from the foundation to be used to enhance quality, affordability, and availability of child care and early education for all children in the state.

SECTION 2308. Arkansas Code § 20–78–502(a)(6), concerning the duties of the Arkansas Early Childhood Commission, is amended to read as follows:

<< AR ST § 20–78–502 >>

(6) Advising the ~~Department of Education~~ **Division of Elementary and Secondary Education** and other appropriate state agencies on the development of programmatic standards for early childhood programs to be funded with funds appropriated to the ~~department~~ **Division of Elementary and Secondary Education** or to such other state agencies as may receive appropriations for such purposes;

SECTION 2309. Arkansas Code § 20–78–502(b), concerning the duties of the Arkansas Early Childhood Commission, is amended to read as follows:

<< AR ST § 20–78–502 >>

(b) The ~~division~~ **Division of Child Care and Early Childhood Education** shall assist the commission in carrying out its duties and responsibilities.

SECTION 2310. The introductory language of Arkansas Code § 21–5–223(b)(1), concerning severance pay, is amended to read as follows:

<< AR ST § 21–5–223 >>

(b)(1) If the head of an institution of higher education determines that it is necessary to implement the state workforce reduction policy due to institution organization structure change, budgetary reductions, abolishment of positions or duties, loss of functional responsibility by the institution, or the loss of federal funding, grants, or other special funds, the head of the institution, upon approval by the Director of the ~~Department~~ **Division** of Higher Education, may authorize the payment of funds on a regular payroll schedule as severance pay to full-time, part-time, and job sharing classified employees in regular positions affected by the workforce reduction on the basis of the following pro rata lump sum for completed years of service, including any formally implemented probationary period:

SECTION 2311. Arkansas Code § 21–5–1001(b)(2), concerning the legislative intent regarding employee performance evaluations, is amended to read as follows:

<< AR ST § 21–5–1001 >>

(2) Institution of higher education employees shall be evaluated using an instrument approved by the ~~Department~~ **Division** of Higher Education.

SECTION 2312. Arkansas Code § 21–5–1203(b), concerning the compensation of public school district employees and emergency activities, is amended to read as follows:

<< AR ST § 21–5–1203 >>

(b) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall establish appropriate procedures for the administration of this section.

SECTION 2313. The introductory language of Arkansas Code § 21-5-1402(7)(B), concerning the Higher Education Uniform Classification and Compensation Act, is amended to read as follows:

<< AR ST § 21-5-1402 >>

(B) The ~~Department~~ **Division** of Higher Education may authorize a temporary crossgrade through a change in the classification of a position from the classification authorized in an institution's appropriation act between legislative sessions to assure correct classification and for other purposes with the following restrictions:

SECTION 2314. Arkansas Code § 21-5-1402(7)(B)(iii) and (iv), concerning the Higher Education Uniform Classification and Compensation Act, are amended to read as follows:

<< AR ST § 21-5-1402 >>

(iii) Positions that have been crossgraded may be restored to the original authorized class during the fiscal year with the approval of the ~~department~~ **division** for those positions within the same occupational group;

(iv) Position classifications may be crossgraded or restored to their original classifications only after the review and approval of the ~~department~~ **division**;

SECTION 2315. Arkansas Code § 21-5-1402(13)(A)(ii), concerning the Higher Education Uniform Classification and Compensation Act, is amended to read as follows:

<< AR ST § 21-5-1402 >>

(ii) The ~~department~~ **division** may authorize job sharing for any regular full-time position.

SECTION 2316. Arkansas Code § 21-5-1402(13)(B), concerning the Higher Education Uniform Classification and Compensation Act, is amended to read as follows:

<< AR ST § 21-5-1402 >>

(B) The Director of the ~~Department~~ **Division** of Higher Education or his or her designee shall promulgate necessary rules to carry out this subdivision (13);

SECTION 2317. Arkansas Code § 21-5-1402(20)(E), concerning the Higher Education Uniform Classification and Compensation Act, is amended to read as follows:

<< AR ST § 21-5-1402 >>

(E) Interim reclassifications approved by the ~~department~~ **division** shall be implemented through the crossgrading of existing positions within an institution of higher education or through the acquisition of pool positions as authorized in § 21-5-1414(a)(1).

SECTION 2318. The introductory language of Arkansas Code § 21-5-1405(a), concerning the duties of the Department of Higher Education, is amended to read as follows:

<< AR ST § 21-5-1405 >>

(a) The ~~Department~~ **Division** of Higher Education shall perform the following administrative duties with respect to the institution of higher education classification and compensation plan, subject to this subchapter:

SECTION 2319. Arkansas Code § 21-5-1405(a)(3)(A), concerning the duties of the Department of Higher Education, is amended to read as follows:

<< AR ST § 21-5-1405 >>

(3)(A) Authorize the temporary reclassification of positions in an institution affected by this subchapter in cases in which it has been determined by the ~~department~~ **division** that there are material changes in the duties and responsibilities assigned to the position when there is no available vacant position having the proper classification and when it is impracticable to restructure the duties of the position to the proper classification.

SECTION 2320. Arkansas Code § 21-5-1405(a)(4)(B), concerning the duties of the Department of Higher Education, is amended to read as follows:

<< AR ST § 21-5-1405 >>

(B) When necessary, the ~~department~~ **division** shall confer with the staff of the Legislative Council on the development of and revisions to uniform classification and compensation systems.

SECTION 2321. Arkansas Code § 21-5-1405(a)(6)(C), concerning the duties of the Department of Higher Education, is amended to read as follows:

<< AR ST § 21-5-1405 >>

(C) The procedure under subdivision (a)(6)(A) of this section shall require the final approval of the Director of the ~~Department~~ **Division** of Higher Education, with the review of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee;

SECTION 2322. The introductory language of Arkansas Code § 21–5–1405(a)(7)(B), concerning the duties of the Department of Higher Education, is amended to read as follows:

<< AR ST § 21–5–1405 >>

(B) Unqualified appointments shall be reported by the ~~department~~ **division** to the Legislative Council unless one (1) of the following actions is taken:

SECTION 2323. The introductory language of Arkansas Code § 21–5–1405(b), concerning the duties of the Department of Higher Education, is amended to read as follows:

<< AR ST § 21–5–1405 >>

(b) To ensure and provide for the accuracy and efficiency of this subchapter and to provide for an efficient and equitable system of personnel management, the ~~department~~ **division**, with the review of the Legislative Council, shall:

SECTION 2324. Arkansas Code § 21–5–1409(a), concerning the implementation procedure for grade changes and salary, is amended to read as follows:

<< AR ST § 21–5–1409 >>

(a) The ~~Department~~ **Division** of Higher Education has administrative responsibility for enforcing compliance by institutions of higher education affected by this subchapter in implementing classification and grade changes.

SECTION 2325. Arkansas Code § 21–5–1409(b)(1)(A)(i), concerning the implementation procedure for grade changes and salary, is amended to read as follows:

<< AR ST § 21–5–1409 >>

(i) By a percentage up to two percent (2%) with written approval by the Director of the ~~Department~~ **Division** of Higher Education; or

SECTION 2326. Arkansas Code § 21–5–1409(e), concerning the implementation procedure for grade changes and salary, is amended to read as follows:

<< AR ST § 21–5–1409 >>

(e) All percentage calculations stipulated in this subchapter or any other law affecting salaries of employees of institutions of higher education may be rounded to the nearest even-dollar amount by the ~~Department~~ **Division** of Higher Education when making the increases to employee salaries as provided under subdivision (b)(1) of this section.

SECTION 2327. Arkansas Code § 21–5–1410(a)(1)(B)(i), concerning new appointment to positions in an institution of higher education and other compensation plan provisions, is amended to read as follows:

<< AR ST § 21-5-1410 >>

(B)(i) An institution may request a special rate of pay for a specific classification due to prevailing market rates of pay to hire a new employee up to the midpoint pay level of the appropriate grade of a classification on the appropriate pay plan with the written approval of the Director of the ~~Department~~ **Division** of Higher Education.

SECTION 2328. Arkansas Code § 21-5-1410(a)(1)(B)(iii) and (iv), concerning new appointment to positions in an institution of higher education and other compensation plan provisions, are amended to read as follows:

<< AR ST § 21-5-1410 >>

(iii) A special rate of pay shall not be approved under this section unless the classification is properly reviewed and the special rate of pay is approved as a market-rate classification for the grade and listed on a register of such pay levels by classification maintained by the ~~Department~~ **Division** of Higher Education.

(iv) The ~~department~~ **division** shall file a report of all such classifications with the Legislative Council, or if the General Assembly is in session, the Joint Budget Committee, within the month following the approval.

SECTION 2329. Arkansas Code § 21-5-1410(a)(1)(C)(ii), concerning new appointment to positions in an institution of higher education and other compensation plan provisions, is amended to read as follows:

<< AR ST § 21-5-1410 >>

(ii) The ~~department~~ **division** shall file a report of all the employee salary adjustments under subdivision (a)(1)(C)(i) of this section with the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, within the month following the approval; or

SECTION 2330. Arkansas Code § 21-5-1410(c)(1), concerning new appointment to positions in an institution of higher education and other compensation plan provisions, is amended to read as follows:

<< AR ST § 21-5-1410 >>

(1) Employee meets or exceeds the eligibility requirements approved by the ~~department~~ **division** after review by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, which shall include at a minimum:

SECTION 2331. Arkansas Code § 21-5-1410(f)(2), concerning new appointment to positions in an institution of higher education and other compensation plan provisions, is amended to read as follows:

<< AR ST § 21-5-1410 >>

(2) An employee who is placed in a lower-graded position on either compensation plan because the original position has expired due to lack of funding, program changes, or withdrawal of federal grant funds may continue to be paid at the same rate as the employee was being paid in the higher-graded position upon approval of the ~~department~~ **division** after seeking the review of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 2332. The introductory language of Arkansas Code § 21-5-1411(a)(1), concerning shift differentials, is amended to read as follows:

<< AR ST § 21-5-1411 >>

(a)(1) Upon the approval of the ~~Department~~ **Division** of Higher Education, an employee whose working hours do not conform to normal state business hours shall be eligible for additional compensation up to twelve percent (12%) of the hourly rate for which he or she is eligible under this subchapter as a shift differential if:

SECTION 2333. Arkansas Code § 21-5-1411(c)(3)(B), concerning shift differentials, is amended to read as follows:

<< AR ST § 21-5-1411 >>

(B) The shift schedule, classifications, positions, and the percentage of shift differential for which the class titles are eligible shall be submitted to the ~~department~~ **division** for approval by the Director of the ~~Department~~ **Division** of Higher Education.

SECTION 2334. Arkansas Code § 21-5-1411(e), concerning shift differentials, is amended to read as follows:

<< AR ST § 21-5-1411 >>

(e) The ~~department~~ **division** shall report all shift differential approvals to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 2335. Arkansas Code § 21-5-1412(b)(1)(D), concerning compensation differentials, is amended to read as follows:

<< AR ST § 21-5-1412 >>

(D) Compensation differential plan has been approved by the ~~Department~~ **Division** of Higher Education after review by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 2336. Arkansas Code § 21-5-1412(c)(2)(B) and (C), concerning compensation differentials, are amended to read as follows:

<< AR ST § 21-5-1412 >>

(B) The positions shall be certified by the head of the institution as having been assigned to a work environment that poses an increased risk of personal injury and shall be submitted as part of the plan for payment of hazardous duty differential to the ~~department~~ **division** for approval by the Director of the ~~Department~~ **Division** of Higher

Education after review and approval of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(C) Subsequent changes to the facility or unit, location, and eligible positions or classifications within the facility or unit on file with the department **division** shall receive prior approval by the director after review and approval of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 2337. Arkansas Code § 21-5-1413(a)(1)(D), concerning salary administration grids, is amended to read as follows:

<< AR ST § 21-5-1413 >>

(D) Salary administration grid has been approved by the Director of the Department **Division** of Higher Education after review by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 2338. Arkansas Code § 21-5-1413(a)(2)(E), concerning salary administration grids, is amended to read as follows:

<< AR ST § 21-5-1413 >>

(E) A plan of implementation and salary progression shall be approved by the Department **Division** of Higher Education on a biennial basis.

SECTION 2339. Arkansas Code § 21-5-1413(a)(3), concerning salary administration grids, is amended to read as follows:

<< AR ST § 21-5-1413 >>

(3) An approved salary administration grid may be amended only upon approval by the department **division** after review by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 2340. Arkansas Code § 21-5-1413(b)(3), concerning salary administration grids, is amended to read as follows:

<< AR ST § 21-5-1413 >>

(3) The department **division** shall promulgate rules regarding the implementation and use of a salary administration grid with the review of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 2341. Arkansas Code § 21-5-1415(a), concerning position pools to be established and maintained by the Department of Higher Education, is amended to read as follows:

<< AR ST § 21-5-1415 >>

(a) The ~~Department~~ **Division** of Higher Education shall establish and maintain a central pool of four hundred (400) positions to be used to establish additional positions in an institution of higher education when an institution does not have sufficient positions available to meet unanticipated enrollment growth, industry training demands, or its mandated responsibilities.

SECTION 2342. Arkansas Code § 21–5–1415(d) and (e), concerning position pools to be established and maintained by the Department of Higher Education, are amended to read as follows:

<< AR ST § 21–5–1415 >>

(d) The institution shall provide justification to the ~~department~~ **division** for the need to allocate positions from the central pool.

(e) Titles shall not be assigned to the institution from the central pool until specific positions are requested by the institution, recommended by the ~~department~~ **division**, and reviewed by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 2343. Arkansas Code § 21–5–1416(b), concerning annual career service recognition payments for employees of institutions of higher education, is amended to read as follows:

<< AR ST § 21–5–1416 >>

(b) The ~~Department~~ **Division** of Higher Education shall establish and publish policies and procedures for the administration of career service recognition payments to employees of institutions upon a determination by the Director of the ~~Department~~ **Division** of Higher Education that the respective institution has sufficient funds available for that purpose.

SECTION 2344. Arkansas Code § 21–5–1417(a), concerning the Merit Increase Pay System, is amended to read as follows:

<< AR ST § 21–5–1417 >>

(a) The ~~Department~~ **Division** of Higher Education may develop and implement a merit increase pay system in accordance with the performance evaluation process under § 21–5–1001 for the employees of all institutions covered by this subchapter.

SECTION 2345. Arkansas Code § 21–5–1417(d), concerning the Merit Increase Pay System, is amended to read as follows:

<< AR ST § 21–5–1417 >>

(d) Merit payments may be awarded to employees who satisfy performance evaluation-based criteria developed by institutions in accordance with rules and policies developed and approved by the ~~Department~~ **Division** of Higher Education after review by the Legislative Council.

SECTION 2346. Arkansas Code § 21–6–406(a)(52), concerning clerks of county courts and miscellaneous fees, is amended to read as follows:

<< AR ST § 21-6-406 >>

(52) For each abstract forwarded to the Auditor of State and to the Director of the ~~Department of Education~~ **Division of Elementary and Secondary Education** 1.00

SECTION 2347. Arkansas Code § 23-4-805(b), concerning exemptions and certain officials permitted to accept and use passes regarding railroads and transportation companies, is amended to read as follows:

<< AR ST § 23-4-805 >>

(b) The Commissioner of **Elementary and Secondary** Education and the Director of the ~~Department~~ **Division** of **Career and Technical** Education and the prosecuting attorneys and judges of the circuit courts of the several judicial districts of this state shall be permitted to accept and use a free pass on any railroad in this state without incurring any penalty prescribed under § 23-4-803 [repealed].

SECTION 2348. Arkansas Code § 23-39-505(b)(2)(A), concerning qualifications for licensure and issuance regarding the Fair Mortgage Lending Act, is amended to read as follows:

<< AR ST § 23-39-505 >>

(2)(A) Have received a high school diploma or a high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services**.

SECTION 2349. Arkansas Code § 23-64-607(a)(2), concerning the qualifications of a counselors for licensure or certification and issuance of license, is amended to read as follows:

<< AR ST § 23-64-607 >>

(2) Have received a high school diploma or a high school equivalency diploma approved by the ~~Department of Career Education~~ **Adult Education Section of the Division of Workforce Services**;

SECTION 2350. Arkansas Code § 23-115-103(11), concerning the definition of “lobbying” under the Arkansas Scholarship Lottery Act, is amended to read as follows:

<< AR ST § 23-115-103 >>

(11) “Lobbying” means communicating directly or soliciting others to communicate with the Director of the Office of the Arkansas Lottery, the ~~Director~~ **Secretary** of the Department of Finance and Administration, any employee of the office, or a member of the Legislative Council with the purpose of influencing the actions of the office or the Legislative Council;

SECTION 2351. The introductory language of Arkansas Code § 23-115-103(22)(I), concerning the definition of “operating expenses” under the Arkansas Scholarship Lottery Act, is amended to read as follows:

<< AR ST § 23-115-103 >>

(I) Payments to the ~~Department~~ **Division** of Higher Education to:

SECTION 2352. Arkansas Code § 23–115–103(22)(I)(i) and (ii), concerning the definition of “operating expenses” under the Arkansas Scholarship Lottery Act, are amended to read as follows:

<< AR ST § 23–115–103 >>

(i) Reimburse the ~~Department~~ **Division** of Higher Education for the costs of administering scholarship awards funded with net proceeds; and

(ii) Replenish nonlottery state educational resources expended by the ~~Department~~ **Division** of Higher Education on scholarship awards otherwise funded with net proceeds;

SECTION 2353. Arkansas Code § 23–115–103(22)(M), concerning the definition of “operating expenses” under the Arkansas Scholarship Lottery Act, is amended to read as follows:

<< AR ST § 23–115–103 >>

(M) Management fees charged by a financial institution to manage a trust account or fund maintained by the ~~Department~~ **Division** of Higher Education or the office;

SECTION 2354. Arkansas Code § 23–115–104(c)(2), concerning the requirement of a fiscal impact statement to accompany a proposed bill, is amended to read as follows:

<< AR ST § 23–115–104 >>

(2) The ~~Department~~ **Division** of Higher Education or the office, as applicable, shall assist in the preparation of the fiscal impact statement.

SECTION 2355. Arkansas Code § 23–115–205(a)(22)(B), concerning the powers of the Office of the Arkansas Lottery, is amended to read as follows:

<< AR ST § 23–115–205 >>

(B) The office shall seek the advice of the ~~Department~~ **Division** of Higher Education when advertising to promote scholarships and grants funded by net proceeds;

SECTION 2356. Arkansas Code § 23–115–603(a)(3), concerning the fidelity fund, retailer fee, reserve account to cover losses, and a retailer bond, is amended to read as follows:

<< AR ST § 23–115–603 >>

(3) At the end of each fiscal year, the office shall pay to the trust account managed and maintained by the ~~Department~~ **Division** of Higher Education any amount in the fidelity fund that exceeds five hundred thousand dollars (\$500,000), and the funds shall be considered net proceeds from a lottery.

SECTION 2357. Arkansas Code § 23-115-1101(a)(4), concerning the duties of the Legislative Council, is amended to read as follows:

<< AR ST § 23-115-1101 >>

(4) Review reports filed with the Legislative Council by the ~~Department~~ **Division** of Higher Education, including without limitation reports filed under §§ 6-85-205 and 6-85-220;

SECTION 2358. Arkansas Code § 24-1-301(2)(F)(i) and (ii), concerning the forfeiture of public retirement system benefits, are amended to read as follows:

<< AR ST § 24-1-301 >>

(i) A college, university, or the ~~Department~~ **Division** of Higher Education provided for under § 24-7-801 et seq.; and

(ii) A vocational-technical school or the ~~Department~~ **Division** of Career **and Technical** Education, **Adult Education Section of the Division of Workforce Services, and the Office of Skills Development**, provided for under § 24-7-901 et seq.;

SECTION 2359. Arkansas Code § 24-2-302(2), concerning the classification of members in the Arkansas Public Employees' Retirement System, is amended to read as follows:

<< AR ST § 24-2-302 >>

(2) All eligible employees of the ~~Department~~ **Division** of Arkansas State Police shall be members of the State Police Retirement System;

SECTION 2360. Arkansas Code § 24-2-302(3)(D), concerning the classification of members in the Arkansas Public Employees' Retirement System, is amended to read as follows:

<< AR ST § 24-2-302 >>

(D) Any person employed in a position requiring professional training or certification with an area vocational-technical school or employed by the Arkansas Educational Television Commission, except that employees of area vocational-technical schools and the ~~Department~~ **Division** of Career **and Technical** Education, **Adult Education Section of the Division of Workforce Services, and the Office of Skills Development**, who have elected to participate in an alternate retirement plan established by §§ 24-7-901 and 24-7-903 — 24-7-908 shall be active members of the alternate retirement plan; and

SECTION 2361. Arkansas Code § 24-2-302(3)(E)(i), concerning the classification of members in the Arkansas Public Employees' Retirement System, is amended to read as follows:

<< AR ST § 24-2-302 >>

(E)(i) Any person employed in a position requiring professional training or certification with the Arkansas Rehabilitation Services of the ~~Department of Career Education~~ **Division of Workforce Services**, the Division of State Services for the Blind of the Department of Human Services, or the Division of Youth Services of the Department of Human Services except those employees who have elected coverage under § 24-4-101 et seq.

SECTION 2362. Arkansas Code § 24-2-401(3)(F)(i) and (ii), concerning the Arkansas Public Employees' Retirement System, are amended to read as follows:

<< AR ST § 24-2-401 >>

(i) A college, university, or the ~~Department~~ **Division** of Higher Education provided for under § 24-7-801 et seq.; or

(ii) A vocational-technical school or the ~~Department~~ **Division** of Career **and Technical** Education, **Adult Education Section of the Division of Workforce Services, and the Office of Skills Development**, provided for under § 24-7-901 et seq.; or

SECTION 2363. Arkansas Code § 24-2-401(4)(D)(i) and (ii), concerning the Arkansas Public Employees' Retirement System, are amended to read as follows:

<< AR ST § 24-2-401 >>

(i) A college, university, or the ~~Department~~ **Division** of Higher Education whose employees are covered by an alternate retirement plan provided for under § 24-7-801 et seq.; or

(ii) A vocational-technical school or the ~~Department~~ **Division** of Career **and Technical** Education, **Adult Education Section of the Division of Workforce Services, and the Office of Skills Development**, whose employees are covered by an alternate retirement plan provided for under § 24-7-901 et seq.

SECTION 2364. Arkansas Code § 24-2-703(b)(1), concerning tax exemptions regarding the Arkansas Public Employees' Retirement System, is amended to read as follows:

<< AR ST § 24-2-703 >>

(b)(1) It is the purpose of this section to provide equitable tax treatment to persons receiving benefits from alternate publicly supported retirement or annuity plans of the state's colleges and universities and the ~~Department~~ **Division** of Higher Education.

SECTION 2365. Arkansas Code § 24-4-101(17)(A)(i)(a), concerning the Arkansas Public Employees' Retirement System, is amended to read as follows:

<< AR ST § 24-4-101 >>

(17)(A)(i)(a) "Employees" means all officers and employees of any office, agency, board, commission, including the ~~Department~~ **Division** of Higher Education, or ~~Department~~ **department** of a public employer whose compensations were or are payable from funds appropriated by the public employer and all otherwise eligible employees whose compensations were or are payable in whole or part from federal funds, as well as the official court reporters and stenographers of the circuit and chancery courts of the state and all of the prosecuting attorneys of the judicial districts of Arkansas.

SECTION 2366. Arkansas Code § 24-4-101(34)(B)(i)(b), concerning the definition of "public safety member" under the laws of the Arkansas Public Employees' Retirement System, is amended to read as follows:

<< AR ST § 24-4-101 >>

(b) "Police officer" includes a wildlife officer of the Arkansas State Game and Fish Commission, a drug enforcement officer of a judicial drug taskforce, a civilian firefighter of the ~~State Military Department~~ **Department of the Military** covered under § 24-4-1004, and all officers and the Chief of the State Capitol Police within the office of the Secretary of State.

SECTION 2367. Arkansas Code § 24-4-522(c)(2), concerning the applicability of benefit provisions of the Arkansas Public Employees' Retirement System, is amended to read as follows:

<< AR ST § 24-4-522 >>

(2)(A) Employees of the Department of Human Services and employees of the Arkansas Rehabilitation Services of the ~~Department of Career Education~~ **Division of Workforce Services** shall be entitled to the benefit amount computed by applying the benefit provisions prescribed by this chapter for all credited service rendered before and after January 1, 1978, except that benefit amounts based upon employment before January 1, 1978, shall not be less than benefit amounts computed in accordance with benefit provisions in effect December 31, 1977.

(B) On and after January 1, 1993, employees of the Arkansas Rehabilitation Services of the ~~Department of Career Education~~ **Division of Workforce Services** who elected to be covered by the provisions of this subsection and who are still active employees on January 1, 1993, shall be entitled to the benefit amount computed by applying the benefit provisions prescribed by this chapter for all credited service rendered before and after January 1, 1978, except that benefit amounts based upon employment before January 1, 1978, shall be computed in accordance with current benefit provisions in effect for the Arkansas Teacher Retirement System at the time of their retirement.

SECTION 2368. Arkansas Code § 24-4-901(d)(6), concerning credited service and reciprocity of the Arkansas Retirement Plan, is amended to read as follows:

<< AR ST § 24-4-901 >>

(6) An alternate retirement plan for a college, university, or the ~~Department~~ **Division** of Higher Education provided for under § 24-8-101 et seq. or for a vocational-technical school or the ~~Department~~ **Division** of Career Services, **Adult Education Section of the Division of Workforce Services, and the Office of Skills Development**, provided for under § 24-9-201 et seq.; and

SECTION 2369. Arkansas Code § 24-7-202(17)(B)(ii), concerning the definition of “employment with a school” under the laws governing the Arkansas Teacher Retirement System, is amended to read as follows:

<< AR ST § 24-7-202 >>

(ii) Area vocational-technical schools, except those employees of area vocational schools and the ~~Department~~ **Division** of Career Services, **Adult Education Section of the Division of Workforce Services, and the Office of Skills Development**, who have elected to participate in an alternate retirement plan established by §§ 24-7-901 and 24-7-903 — 24-7-908;

SECTION 2370. Arkansas Code § 24-7-202(17)(C), concerning the definition of “employment with a school” under the laws governing the Arkansas Teacher Retirement System, is amended to read as follows:

<< AR ST § 24-7-202 >>

(C) Employment by the Arkansas Rehabilitation Services of the ~~Department of Career Education~~ **Division of Workforce Services** except those employees who have elected to participate in the Arkansas Public Employees' Retirement System;

SECTION 2371. Arkansas Code § 24-7-801(1), concerning the definition of “alternate retirement plan” under the laws providing for an alternate retirement plan for state colleges, is amended to read as follows:

<< AR ST § 24-7-801 >>

(1) “Alternate retirement plan” means a retirement plan based on the purchase of contracts providing retirement and death benefits for the employees of Arkansas State University, the ~~department~~ **Division of Higher Education** employees, and employees of Arkansas' state-supported universities, colleges, or junior colleges that are not a part of the University of Arkansas System;

SECTION 2372. Arkansas Code § 24-7-801(4), concerning the definition of “department employees” under the laws providing for an alternate retirement plan for state colleges, is amended to read as follows:

<< AR ST § 24-7-801 >>

(4) “~~Department~~ **Division** employees” means the Director of the ~~Department~~ **Division** of Higher Education and the professional education employees of the ~~Department~~ **Division** of Higher Education;

SECTION 2373. Arkansas Code § 24–7–804 is amended to read as follows:

<< AR ST § 24–7–804 >>

24–7–804. Establishment and administration of plan.

(a) The board of any college and the Arkansas Higher Education Coordinating Board may establish and maintain an alternate retirement plan which shall authorize the purchase of contracts providing retirement and death benefits for staff members and employees of the ~~Department~~ **Division** of Higher Education.

(b) Under the plan, staff members and ~~department~~ **division** employees shall contribute, to the extent authorized or required, toward the purchase of the contracts, which shall be issued to and become the property of the participants.

(c) The board of any college which elects to establish and maintain an alternate retirement plan and the Director of the ~~Department~~ **Division** of Higher Education, if it elects to establish and maintain a plan, shall have authority to administer the plan and to perform or authorize the performance of all such functions as may be reasonably appropriate in its administration.

SECTION 2374. Arkansas Code § 24–7–805(b) and (c), concerning the methods of providing benefits and an agent for service of process for the alternate retirement plan for state colleges, are amended to read as follows:

<< AR ST § 24–7–805 >>

(b) The benefits to be provided for or on behalf of staff members and employees of the ~~Department~~ **Division** of Higher Education under an alternate retirement plan may be provided through insurance policies and annuity contracts, both fixed and variable in nature, or a combination thereof, as specified in the plan, which insurance policies and annuity contracts may be obtained from any insurance company authorized to do business in this state or from any nonprofit company organized and operated exclusively for the purpose of aiding and strengthening educational or scientific institutions by issuing insurance or annuity contracts only to or for the benefit of such institutions or individuals engaged in their services.

(c) In any action brought by a staff member or ~~department~~ **division** employee on a policy or contract, any official of the college or the Director of the ~~Department~~ **Division** of Higher Education shall be deemed to be the agent of the nonprofit company only for the purpose of service of process on the contract or policy, and for no other purpose.

SECTION 2375. Arkansas Code § 24–7–806(a), concerning the procedure for designation of companies to provide benefit contracts for the alternate plan for state colleges, is amended to read as follows:

<< AR ST § 24–7–806 >>

(a) The board of each college or university, or the Arkansas Higher Education Coordinating Board of the ~~Department~~ **Division** of Higher Education, shall designate the companies from which contracts are to be purchased under the alternate retirement plan and shall approve the form and contents of the contracts.

SECTION 2376. Arkansas Code § 24–7–807(5)(A) and (B), concerning participation in an alternate retirement plan for state colleges, is amended to read as follows:

<< AR ST § 24–7–807 >>

(5)(A)(i) Any ~~Department~~ **Division** of Higher Education employee who transferred from another state department **or division** covered by a state-supported retirement system may elect to participate in an alternate retirement plan.

(ii) The employee shall file written notice of his or her election with the Director of the ~~Department~~ **Division** of Higher Education.

(B)(i) Any ~~department~~ **division** employee with five (5) or more years of actual service who elects to participate only in the alternate retirement plan and who has left his or her contributions in the retirement system shall be eligible to receive an annuity on or after attaining the normal retirement age and on his or her retirement from covered employment.

(ii) The amount of the annuity shall be determined by the benefit formula of the retirement system at the time of his or her retirement.

SECTION 2377. Arkansas Code § 24–7–808 is amended to read as follows:

<< AR ST § 24–7–808 >>

24–7–808. Contributions.

(a)(1) Any college or university which elects to establish and maintain an alternate retirement plan, and the Arkansas Higher Education Coordinating Board if it so elects, shall contribute to that plan on behalf of each staff member who elects to participate in the alternate retirement plan, or employee of the ~~Department~~ **Division** of Higher Education, six percent (6%) of his or her total regular compensation during the continuance of his or her employment.

(2) Each staff member who elects to participate in the alternate retirement plan, or ~~department~~ **division** employee, at the discretion of the college or university, shall also contribute thereto six percent (6%) of his or her total regular compensation.

(b)(1) At its discretion, the ~~department~~ **division**, college, or university may contribute a minimum of an additional four percent (4%) of the staff member's total regular compensation.

(2) The ~~department~~ **division**, college, or university may contribute an amount so that the percentage rate in subdivision (a)(1) of this section plus the additional rate in subdivision (b)(1) of this section equals the total employer contribution rate under the Arkansas Teacher Retirement System if the college or university determines that sufficient funds are available to pay that contribution rate.

(3) Each staff member may be required to match that additional contribution by contributing a percentage of his or her total regular compensation as determined by the ~~department~~ **division**, college, or university.

(c) In addition to the contributions defined in subsections (a) and (b) of this section, the ~~department~~ **division** or any college or university which elects to establish and maintain an alternate retirement plan may permit a newly eligible employee who elects to establish and maintain an alternate retirement plan and may permit a newly eligible employee who elects to participate in an alternate retirement plan to make incremental increases in plan contributions to reach the required contribution level by completion of the fourth year of participation in the alternate retirement plan.

(d) Payment of contributions authorized by this section shall be made by the disbursing officer of the college or university and by the state official charged with the duty of paying salaries to ~~department~~ **division** employees to the designated companies in accordance with the provisions of this section.

SECTION 2378. Arkansas Code § 24-7-907(4)(B), concerning participation in an alternate retirement plan for vocational-technical schools, is amended to read as follows:

<< AR ST § 24-7-907 >>

(B) The notice of election shall be in writing on a form established by the division and filed with both the Director of the ~~Department of Career Education~~ **Division of Higher Education** and the retirement system.

SECTION 2379. Arkansas Code § 24-7-1601(a)(2), concerning the Arkansas Teacher Retirement System, is amended to read as follows:

<< AR ST § 24-7-1601 >>

(2) Confusion about the intent of the General Assembly concerning the coverage of employees of state-supported universities, colleges, junior colleges, and vocational-technical schools, the Arkansas Higher Education Coordinating Board, the ~~Arkansas Department~~ **Division of Career and Technical Education, Adult Education Section, Office of Skills Development, and Arkansas Rehabilitation Services**, and any other entity offering both the Arkansas Teacher Retirement System retirement plan and an alternate retirement plan create uncertainty in the administration of law, and legislative clarification of the law is needed.

SECTION 2380. Arkansas Code § 25-4-125(b)(1)(A), concerning the State Broadband Manager, is amended to read as follows:

<< AR ST § 25-4-125 >>

(A) State agencies, boards, commissions, and constitutional officers, including without limitation the Governor, Department of Education, ~~Department of Higher Education~~, and Arkansas Department of Transportation;

SECTION 2381. Arkansas Code § 25-6-101 is amended to read as follows:

<< AR ST § 25-6-101 >>

25-6-101. Purpose.

It is intended that all authority and responsibility of the State Board of Education be administered through the ~~Department of Education~~ **Division of Elementary and Secondary Education** under the direction and supervision of the Commissioner of **Elementary and Secondary** Education.

SECTION 2382. Arkansas Code § 25-6-102(a), concerning the organization and Commissioner of the Department of Education, is amended to read as follows:

<< AR ST § 25–6–102 >>

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall consist of:

- (1) The State Board of Education;
- (2) The ~~Department of Education~~ **Division of Elementary and Secondary Education** under the direction and supervision of the Commissioner of **Elementary and Secondary Education**; and
- (3) Any divisions or subdivisions as presently exist within the ~~Department of Education~~ **Division of Elementary and Secondary Education** or as may be created by the State Board of Education or as created by law and placed under the ~~Department of Education~~ **Division of Elementary and Secondary Education**.

SECTION 2383. Arkansas Code § 25–6–107(a)(1), concerning the local education agency numbers, is amended to read as follows:

<< AR ST § 25–6–107 >>

(a)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** is the sole and official issuer of local education agency numbers to educational entities in the state.

SECTION 2384. Arkansas Code § 25–7–101 is amended to read as follows:

<< AR ST § 25–7–101 >>

25–7–101. Creation — Director — Organization — Personnel.

(a) There is created a ~~Department~~ **Division** of Higher Education.

(b)(1) The executive head of the ~~department~~ **division** shall be the Director of the ~~Department~~ **Division** of Higher Education.

(2) The director shall be appointed, in consultation with the Arkansas Higher Education Coordinating Board, by the Governor and shall serve at the pleasure of the Governor.

(3) The director shall report to the Secretary of the Department of Education.

(c) The ~~department~~ **division** shall consist of the Arkansas Higher Education Coordinating Board and any other divisions which may be created by law and placed under the ~~department~~ **Division of Higher Education**.

(d) The director, with the advice and consent of the Governor, **and the Secretary of the Department of Education**, shall appoint the heads of the respective divisions. All of the personnel of the ~~department~~ **Division of Higher Education** 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 shall have under any civil service or merit system.

(e) Each division of the ~~department~~ **Division of Higher Education** 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 or necessary for the effective and efficient operation of the ~~department~~ **Division of Higher Education**.

(f) The several institutions of higher education in this state shall be requested to cooperate with the department **Division of Higher Education** in an effort to coordinate their programs.

SECTION 2385. Arkansas Code § 25–10–144(b)(1), concerning the creation of the Governor's Advisory Commission on National Service and Volunteerism, is amended to read as follows:

<< AR ST § 25–10–144 >>

(1) Assist the community engagement program and staff of the Director's Office of the ~~Department of Human Services~~ **Division of Higher Education** in setting goals, establishing priority activities, performing an advocacy role, and assisting in funding and resource development and publicity and recognition and awards programs; and

SECTION 2386. Arkansas Code § 25–10–144(c)(2)(H) and (I), concerning the creation of the Governor's Advisory Commission on National Service and Volunteerism, are amended to add an additional subdivision and to read as follows:

<< AR ST § 25–10–144 >>

(H) One (1) or more members representing a national service program described in 42 U.S.C. § 12572, as it existed on January 1, 2015; ~~and~~

(I) The Commissioner of **Elementary and Secondary** Education or his or her designee; ~~and~~

(J) One (1) or more members representing the volunteer sector.

SECTION 2387. Arkansas Code § 25–24–103 is amended to read as follows:

<< AR ST § 25–24–103 >>

25–24–103. Staff of commission.

(a)(1) The Governor shall appoint an executive director **the Director** of the Martin Luther King, Jr. Commission.

(2) The executive director shall serve at the pleasure of the Governor.

(3) The director shall report to the Secretary of the Department of Education.

(b) The ~~commission~~ **Department of Education** may employ staff and consultants **on behalf of the commission** as authorized by law and fix their compensation, duties, authority, and responsibilities.

SECTION 2388. Arkansas Code § 25–30–102(a)(2), concerning the powers and duties of the Career Education and Workforce Development Board, is amended to read as follows:

<< AR ST § 25–30–102 >>

(2) All policy issues affecting the public schools will be developed by the ~~Career Education and Workforce Development Board~~ after consultation with the State Board of Education and implemented in coordination with

the Department of Education **Division of Elementary and Secondary Education** or the education service cooperatives, or both.

SECTION 2389. Arkansas Code § 25–30–104 is amended to read as follows:

<< AR ST § 25–30–104 >>

25–30–104. Coordination with State Board of Education and Department of Education **Division of Elementary and Secondary Education.**

The Career Education and Workforce Development Board and the State Board of Education shall coordinate their activities to ensure that academic, workplace, and technical skills create opportunities for a strong comprehensive education regardless of the student's ultimate career choice.

SECTION 2390. Arkansas Code § 25–30–106 is amended to read as follows:

<< AR ST § 25–30–106 >>

25–30–106. Department **Division of Career and Technical Education.**

(a) There is created the Department **Division of Career and Technical Education within the Department of Education.**

(b)(1) ~~The Arkansas Rehabilitation Services as an agency responsible to the Career Education and Workforce Development Board and as a part of the Department of Career Education shall function as an agency in accordance with § 6–52–101 et seq. and § 25–30–201 et seq.~~

(2) This subchapter shall assure that the Arkansas Rehabilitation Services functions organizationally at a level at least equal to that of any division or entity of the Department of Career Education.

(c) ~~The Governor shall appoint a director of the Department of Career Education who shall:~~

(1) ~~Be a member of the Governor's cabinet;~~

(2) ~~Be confirmed by the Governor; and~~

(3)(2) ~~Serve at the pleasure of the Governor.~~

(d) ~~The director shall devote all of his or her time to the duties of his or her office, shall act as agent of the board, and shall perform such other duties as are designated by the board or by statute.~~

(e) ~~The director shall serve as the ex officio secretary of the board without vote.~~

(f) ~~The person selected as director shall:~~

(1) ~~Be of good moral character;~~

(2) ~~Be recognized as a leader in the field of vocational or workforce education;~~

(3) ~~Have a bachelor's degree from an accredited institution; and~~

(4) ~~Be qualified technically and by experience to direct the work of the Department of Career Education.~~

~~(g) No person who is related within the fourth degree of consanguinity or affinity to any member of the board shall be eligible to serve as director of the Department of Career Education.~~

SECTION 2391. Arkansas Code § 25–30–107 is amended to read as follows:

<< AR ST § 25–30–107 >>

25–30–107. Powers and duties of the ~~Department~~ **Division of Career and Technical Education.**

(a)(1) All personnel of the ~~Department~~ **Division** of Career **and Technical** Education shall be employed by and serve at the pleasure of the ~~Director of the Department of Career Education~~ **Secretary of the Department of Education.**

(2) However, this section does not reduce any rights or benefits of employees, including retirement benefits, that they had when employed by the Department of Career Education.

(b)(1) The authority and responsibility of the ~~Career Education and Workforce Development Board~~ **State Board of Education** and the ~~department~~ **division** shall include general control and supervision of all programs of vocational, technical, and occupational education in secondary institutions.

(2) This authority shall apply to programs in:

(A) ~~State technical institutes;~~

~~(B) State postsecondary vocational schools;~~

~~(C)~~ ¹⁴ State area vocational high school centers;

~~(D)~~ **(B)** State public schools; and

~~(E)~~ **(C)** Any other public educational facility or institution now in existence or hereafter established in the state with the exception of technical colleges, community colleges, universities, and colleges.

SECTION 2392. Arkansas Code § 25–30–108 is repealed.

<< Repealed: AR ST § 25–30–108 >>

~~25–30–108. Authority of Director of the Department of Career Education to enter into contracts.~~

~~The Director of the Department of Career Education may enter into contracts with private organizations licensed by the State Board of Education or the Department of Career Education in order to provide vocational-technical training to needy citizens of the State of Arkansas.~~

SECTION 2393. Arkansas Code § 26–18–303(a), concerning records held by the Department of Finance and Administration, the confidentiality of those records, and privilege and exceptions, is amended to read as follows:

<< AR ST § 26–18–303 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration is the official custodian of all records and files required by any state tax law to be filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration and is required to take all steps necessary to maintain their confidentiality.

(2)(A)(i) Except as otherwise provided by this chapter, the records and files of the ~~Director~~ **Secretary** of the Department of Finance and Administration concerning the administration of any state tax law are confidential and privileged.

(ii) These records and files and any information obtained from these records or files or from any examination or inspection of the premises or property of any taxpayer shall not be divulged or disclosed by the ~~Director~~ **Secretary** of the Department of Finance and Administration or any other person who may have obtained these records and files.

(B) It is the specific intent of this chapter that all tax returns, audit reports, and information pertaining to any tax returns, whether filed by individuals, corporations, partnerships, or fiduciaries, shall not be subject to the provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq.

SECTION 2394. Arkansas Code § 26-36-303(1)(A)(vi), concerning a setoff against state tax refunds, is amended to read as follows:

<< AR ST § 26-36-303 >>

(vi) The ~~Department~~ **Division** of Higher Education;

SECTION 2395. Arkansas Code § 26-36-303(1)(A)(xi), concerning a setoff against state tax refunds, is amended to read as follows:

<< AR ST § 26-36-303 >>

(xi) The Office of Personnel Management of the ~~Department of Finance and Administration~~ ;

SECTION 2396. Arkansas Code § 26-36-303(4), concerning a setoff against state tax refunds, is repealed.

<< AR ST § 26-36-303 >>

(4) "~~Division~~" means the ~~Revenue Division of the Department of Finance and Administration~~;

SECTION 2397. Arkansas Code § 26-36-303(5), concerning a setoff against state tax refunds, is amended to read as follows:

<< AR ST § 26-36-303 >>

(5) "Refund" means the Arkansas income tax refund that the ~~division~~ **Revenue Division of the Department of Finance and Administration** determines to be due any individual taxpayer less any amounts determined by the ~~division~~ **Revenue Division of the Department of Finance and Administration** to be due to the ~~division~~ **Revenue Division of the Department of Finance and Administration** for payment of any state tax as defined in the Arkansas Tax Procedure Act, § 26-18-101 et seq.; and

SECTION 2398. Arkansas Code § 26–51–509(c)(1)(B), concerning youth apprenticeship programs, is amended to read as follows:

<< AR ST § 26–51–509 >>

(B) If the apprentice is employed as described in subdivision (a)(2) of this section, the ~~Department of Career Education~~ **Office of Skills Development**.

SECTION 2399. Arkansas Code § 26–51–509(g)(2), concerning youth apprenticeship programs, is amended to read as follows:

<< AR ST § 26–51–509 >>

(2) The Department of Finance and Administration shall consult with the office **United States Office of Apprenticeship** and the ~~Department of Career Education~~ **Office of Skills Development** during the promulgation of the rules.

SECTION 2400. Arkansas Code § 26–51–1101(1), concerning the definition of “accredited institution of higher education” under the laws governing donations or sales of equipment to educational institutions, is amended to read as follows:

<< AR ST § 26–51–1101 >>

(1) “Accredited institution of higher education” means a four-year public college or university that offers bachelor's degrees and is recognized by the ~~Department~~ **Division** of Higher Education for credit;

SECTION 2401. Arkansas Code § 26–51–1101(5), concerning the definition of “qualified education program” under the laws governing donations or sales of equipment to educational institutions, is amended to read as follows:

<< AR ST § 26–51–1101 >>

(5) “Qualified education program” means a program conducted by a qualified educational institution under rules prescribed by the ~~Department~~ **Division** of Higher Education for programs in colleges, universities, or junior colleges, by the ~~Department of Workforce Education~~ **Division of Career and Technical Education** for programs in vocational technical training schools and by the ~~Department of Education~~ **Division of Elementary and Secondary Education** for programs in elementary or secondary schools, all of which programs are for the purpose of promoting the use of new machinery and equipment for classroom, laboratory, and other educational instruction;

SECTION 2402. Arkansas Code § 26–51–1101(8), concerning the definition of “qualified research program” under the laws governing donations or sales of equipment to educational institutions, is amended to read as follows:

<< AR ST § 26–51–1101 >>

(8) “Qualified research program” means a program of applied or basic research undertaken by a qualified educational institution pursuant to rules jointly prescribed by the Division of Science and Technology of the Arkansas Economic Development Commission and the ~~Department~~ **Division** of Higher Education under § 15–3–110;

SECTION 2403. Arkansas Code § 26–80–101(b)(4)(A)(ii)(b), concerning a uniform rate of tax, is amended to read as follows:

<< AR ST § 26–80–101 >>

(b) ~~Department~~ **Division of Elementary and Secondary** Education; and

SECTION 2404. Arkansas Code § 26–80–101(b)(4)(A)(vi), concerning a uniform rate of tax, is amended to read as follows:

<< AR ST § 26–80–101 >>

(vi) The ~~Department~~ **Division of Elementary and Secondary** Education shall notify the Assessment Coordination ~~Department~~ **Division** if a county treasurer violates subdivision (b)(4)(A)(ii) of this section and withholding of reappraisal funding under this subdivision (b)(4)(A) is authorized.

SECTION 2405. Arkansas Code § 26–80–102(a)(3)(B), concerning approval of taxes at elections, is amended to read as follows:

<< AR ST § 26–80–102 >>

(B) However, if the rate approved has been modified pursuant to the uniform rate of tax calculated by the ~~Department~~ **Division of Elementary and Secondary** Education, then the tax shall be collected at the modified rate until another rate is approved.

SECTION 2406. Arkansas Code § 26–80–403 is amended to read as follows:

<< AR ST § 26–80–403 >>

26–80–403. Establishment of compliance.

Compliance with the uniform rate of tax shall be established by the ~~Department of Education~~ **Division of Elementary and Secondary Education** in coordination with the Assessment Coordination ~~Department~~ **Division**.

SECTION 2407. Arkansas Code § 26–80–404 is amended to read as follows:

<< AR ST § 26–80–404 >>

26–80–404. Calculation of compliance with the uniform rate of tax.

(a) On or before October 1 of each year, the ~~Department of Education~~ **Division of Elementary and Secondary Education**, in conjunction with the Assessment Coordination ~~Department~~ **Division**, shall monitor each school district's compliance with the uniform rate of tax.

(b)(1) The ~~Department of Education~~ **Division of Elementary and Secondary Education** and the Assessment Coordination ~~Department~~ **Division** shall determine compliance with the uniform rate of tax by analyzing the millage rate levied for maintenance and operation millage from the most recent school election in a school district in which the ad valorem tax rate was voted upon.

(2) If the millage rate levied for maintenance and operation millage is equal to or greater than twenty-five (25) mills, then the school district is in compliance with the uniform rate of tax and Arkansas Constitution, Amendment 74.

SECTION 2408. Arkansas Code § 27-16-701(e), concerning an application for a commercial or noncommercial driver's license or instruction permit and restricted permits, is amended to read as follows:

<< AR ST § 27-16-701 >>

(e) The ~~Department of Education~~ **Division of Elementary and Secondary Education** shall develop guidelines for use by school districts to provide a certified exemption from the “C” average requirement of subdivisions (d)(1)–(3) of this section to a student found to be performing at his or her fullest level of capability although that may be below a “C” average.

SECTION 2409. Arkansas Code § 27-20-109 is amended to read as follows:

<< AR ST § 27-20-109 >>

27-20-109. Operator instruction.

(a) The ~~Department of Education~~ **Division of Elementary and Secondary Education** is authorized to prescribe and offer a course in motorcycle and motor-driven cycle operator instruction to be conducted as a part of the driver education program.

(b)(1) The course in motorcycle and motor-driven cycle operation may be conducted both at the elementary and high school levels.

(2) The course should include classroom instruction, actual operation of a motorcycle or motor-driven cycle, and other matters that the ~~department~~ **division** may determine to be necessary to properly equip the student to safely operate a motorcycle.

SECTION 2410. Arkansas Code § 27-24-1102(4), concerning agriculture education, is amended to read as follows:

<< AR ST § 27-24-1102 >>

(4) Certifies to the ~~Department~~ **Division** of Higher Education that its students are accepted for transfer at institutions accredited by an accrediting agency recognized by the federal **United States** Department of Education; and

SECTION 2411. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 6 — Department of Energy and Environment

<< AR ST § 25-43-601 >>

25-43-601. Department of Energy and Environment.

There is created the Department of Energy and Environment as a cabinet-level department.

<< AR ST § 25-43-602 >>

25-43-602. State entities transferred to Department of Energy and Environment.

(a) The administrative functions of the following state entities are transferred to the Department of Energy and Environment by a cabinet level transfer:

- (1) The Advisory Committee on Petroleum Storage Tanks, created under § 8-7-904;**
- (2) The Arkansas Department of Environmental Quality, now to be known as the Division of Environmental Quality, created under § 25-43-604;**
- (3) The Arkansas Geological Survey, created under § 15-55-201;**
- (4) The Arkansas Pollution Control and Ecology Commission, created under § 8-4-104;**
- (5) The Liquefied Petroleum Gas Board, created under § 15-75-201;**
- (6) The Nutrient Water Quality Trading Advisory Panel, created under § 8-4-233; and**
- (7) The Oil and Gas Commission, created under § 15-71-101.**

(b) Unless otherwise provided by law, a cabinet-level department transfer under subsection (a) of this section includes all state entities under a state entity transferred to the Department of Energy and Environment under subsection (a) of this section, including without limitation a division, office, program, or other unit of a state entity transferred to the Department of Energy and Environment under subsection (a) of this section.

(c) Unless otherwise provided by law, a state entity whose administrative functions have been transferred to the Department of Energy and Environment under subsection (a) of this section shall otherwise continue to exercise the duties of the state entity under the administration of the cabinet-level Department of Energy and Environment in the same manner as before the creation of the cabinet-level department.

<< AR ST § 25-43-603 >>

25-43-603. Secretary of the Department of Energy and Environment.

(a) The executive head of the Department of Energy and Environment shall be the Secretary of the Department of Energy and Environment.

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

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

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

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

- (1) Hire department personnel;**
- (2) Perform or assign duties assigned to the department; and**

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

<< AR ST § 25-43-604 >>

25-43-604. Division of Environmental Quality.

(a) There is created the Division of Environmental Quality.

(b) The Division of Environmental Quality shall consist of the divisions transferred from the Arkansas Pollution Control and Ecology Commission as of July 1, 1971, and all other divisions, programs, and offices under the Arkansas Department of Environmental Quality as of June 30, 2019.

(c) All other departments, divisions, agencies, and commissions within this state shall cooperate with the Division of Environmental Quality in fulfilling the Division of Environmental Quality's responsibilities as defined in this subchapter.

(d) All personnel of the Division of Environmental Quality shall be employed by Department of Energy and Environment and serve at the pleasure of the Secretary of the Department of Energy and Environment. This subsection does not reduce any right which an employee in the Division of Environmental Quality shall have under any civil service or merit system.

<< AR ST § 25-43-605 >>

25-43-605. Director of the Division of Environmental Quality.

(a)(1) The executive head of the Division of Environmental Quality shall be the Director of the Division of Environmental Quality.

(2) The director shall be appointed by the Governor with the advice and consent of the Senate, and shall serve at the pleasure of the Governor.

(3) The director shall report to the Secretary of the Department of Energy and Environment.

(b) The director, with the advice and consent of the secretary, may organize the Division of Environmental Quality into divisions, offices, or units which may be necessary to effectively and efficiently administer the statutory responsibilities of the Division of Environmental Quality.

(c) The director, with the advice and consent of the secretary, shall appoint the heads of the respective divisions, offices, or units of the Division of Environmental Quality.

(d) Each division, office, or unit of the Division of Environmental Quality 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, offices, or units of the Division of Environmental Quality as he or she shall deem desirable and necessary for the effective and efficient operation of the Division of Environmental Quality.

(e)(1) The director shall be the executive officer and active administrator of all pollution control activities.

(2) All of the powers of the Arkansas Pollution Control and Ecology Commission under §§ 8-4-201(b)(5), 8-4-203, and 8-4-204 relating to plans and specifications for disposal systems and permits for the discharge of sewage, industrial wastes, or other wastes into the waters of the state are vested in the director.

SECTION 2412. Arkansas Code § 2–15–404(b)(6)(A), concerning the State Plant Board research program, is amended to read as follows:

<< AR ST § 2–15–404 >>

(A) Coordinate with the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality to study the use of industrial hemp in new energy technologies, including without limitation:

- (i) Evaluation of the use of industrial hemp to generate electricity, and to produce biofuels and other forms of energy resources;
- (ii) Growth of industrial hemp on reclaimed mine sites;
- (iii) Use of hemp seed oil in the production of fuels; and
- (iv) Assessment of the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy; and

SECTION 2413. Arkansas Code § 2–15–404(b)(8), concerning the State Plant Board research program, is amended to read as follows:

<< AR ST § 2–15–404 >>

(8) The board shall notify the ~~Department~~ **Division** of Arkansas State Police and each local law enforcement agency with jurisdiction of the duration, size, and location of all industrial hemp demonstration plots.

SECTION 2414. Arkansas Code § 2–15–404(b)(10), concerning the State Plant Board research program, is amended to read as follows:

<< AR ST § 2–15–404 >>

(10) By December 31, 2018, and annually thereafter, the board shall report on the status and progress of the industrial hemp research program to the Governor and to the ~~Arkansas Agriculture Department~~ **of Agriculture**.

SECTION 2415. Arkansas Code § 2–40–406 is amended to read as follows:

<< AR ST § 2–40–406 >>

2–40–406. Arkansas Department **Division of Environmental Quality — Jurisdiction unimpaired.**

This subchapter shall not be interpreted as denying or preempting the regulatory or enforcement jurisdiction of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 2416. Arkansas Code § 2–40–1302(a)(2), concerning disposal of large animal carcasses, is amended to read as follows:

<< AR ST § 2–40–1302 >>

(2) However, no large animal carcass shall be buried or otherwise disposed of in any landfill operated under a permit issued by the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 2417. Arkansas Code § 8-1-101(a), concerning purpose of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-1-101 >>

(a) It is the purpose of this chapter to authorize the Arkansas Pollution Control and Ecology Commission to establish a system of fees for the issuance of permits required by §§ 8-4-101 — 8-4-106, 8-4-201 — 8-4-229, 8-4-301 — 8-4-314, 8-6-201 — 8-6-212, 8-6-213 [repealed], 8-6-214, 8-6-215 — 8-6-217 [superseded], and 8-9-403, to defray costs of other services provided and to authorize the ~~Arkansas Department~~ **Division** of Environmental Quality to collect and enforce these fees.

SECTION 2418. Arkansas Code § 8-1-102(3) and (4), concerning the definitions of “department” and “director” regarding the Arkansas Pollution Control and Ecology Commission, are repealed.

<< AR ST § 8-1-102 >>

(3) ~~“Department” means the Arkansas Department of Environmental Quality;~~

(4) ~~“Director” means the executive head and active administrator of the Arkansas Department of Environmental Quality;~~

SECTION 2419. The introductory language of Arkansas Code § 8-1-103, concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-1-103 >>

The ~~Arkansas Department~~ **Division** of Environmental Quality and the Arkansas Pollution Control and Ecology Commission shall have the following powers and duties, respectively:

SECTION 2420. Arkansas Code § 8-1-103(1)(B)(ii), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-1-103 >>

(ii) Should the amount of permit fees levied on and received from permits existing prior to June 30, 1995, exceed the amounts specified in subdivision (1)(B)(i) of this section in a fiscal year, the overcollections may be retained by the ~~department~~ **division** to be used to reduce permit fees in subsequent years by relative amounts.

SECTION 2421. Arkansas Code § 8-1-103(2)(D), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-1-103 >>

(D) Notwithstanding other provisions of this subchapter and other applicable laws, the commission is authorized to promulgate and the ~~department~~ **division** is authorized to collect annual fees from facilities electing to operate under the terms and conditions of a pollution prevention plan in lieu of an air permit. The annual pollution prevention plan fee shall be equal to the fee otherwise applicable to facilities operating under an air permit;

SECTION 2422. Arkansas Code § 8-1-103(3)-(5), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, are amended to read as follows:

<< AR ST § 8-1-103 >>

(3) The ~~department~~ **division** shall collect the permit fees as established by the commission and shall deny the issuance of an initial permit, a renewal permit, or a modification permit if and when any facility subject to control by the ~~department~~ **division** fails or refuses to pay the fees after reasonable notice as established by the regulations promulgated under this chapter;

(4) The ~~department~~ **division** shall require that any fee defined in this chapter shall be paid prior to the issuance of any permit; and

(5) The ~~department~~ **division** is hereby authorized to promulgate such rules and regulations necessary to administer the fees, rates, tolls, or charges for services established by this section and is directed to prescribe and collect such fees, rates, tolls, or charges for the services delivered by the ~~department~~ **division** in such manner as may be necessary to support the programs of the ~~department~~ **division** as directed by the Governor and the General Assembly.

SECTION 2423. Arkansas Code § 8-1-104 is amended to read as follows:

<< AR ST § 8-1-104 >>

8-1-104. Existing rules and regulations.

All existing rules and regulations of the ~~Arkansas Department~~ **Division** of Environmental Quality not inconsistent with the provisions of this chapter relating to subjects embraced within this chapter shall remain in full force and effect until expressly repealed, amended, or superseded if the rules and regulations do not conflict with the provisions of this chapter.

SECTION 2424. Arkansas Code § 8-1-105 is amended to read as follows:

<< AR ST § 8-1-105 >>

8-1-105. ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund.

(a) ~~An Arkansas Department~~ **A Division** of Environmental Quality Fee Trust Fund is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State.

(b) All interest earnings and fees collected under the provisions of all laws administered by the ~~Arkansas Department~~ **Division** of Environmental Quality shall be deposited into this fund unless otherwise provided by law. The ~~department~~ **division** shall use these funds to defray the costs of operating the ~~department~~ **division**.

(c) The department **division** is hereby authorized to promulgate such rules and regulations as are necessary to administer the fees, rates, tolls, or charges for services established by this section and is directed to prescribe and collect such fees, rates, tolls, or charges for the services delivered by the department **division** in such manner as may be necessary to support the programs of the department **division** as directed by the Governor and the General Assembly.

SECTION 2425. Arkansas Code § 8-1-106(a)(2)(F), concerning disclosure statements, denial of application, appeal, and regulations, is amended to read as follows:

<< AR ST § 8-1-106 >>

(F) Any other information the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may require that relates to the competency, reliability, or responsibility of the applicant and affiliated persons; and

SECTION 2426. Arkansas Code § 8-1-106(b)(1), concerning disclosure statements, denial of application, appeal, and regulations, is amended to read as follows:

<< AR ST § 8-1-106 >>

(b)(1) Except as provided in subdivisions (b)(2) and (4) of this section, all applicants for the issuance or transfer of any permit, license, certification, or operational authority issued by the ~~Arkansas Department~~ **Division** of Environmental Quality shall file a disclosure statement with their applications. Deliberate falsification or omission of relevant information from disclosure statements shall be grounds for civil or criminal enforcement action or administrative denial of a permit, license, certification, or operational authorization.

SECTION 2427. Arkansas Code § 8-1-106(b)(2)(B), concerning disclosure statements, denial of application, appeal, and regulations, is amended to read as follows:

<< AR ST § 8-1-106 >>

(B) Applicants for a general permit to be issued by the department **division** pursuant to its authority to implement the National Pollutant Discharge Elimination System for storm water discharge or any other person or entity the Arkansas Pollution Control and Ecology Commission may by rule exempt from the submissions of a disclosure statement.

SECTION 2428. Arkansas Code § 8-1-106(b)(5)(B), concerning disclosure statements, denial of application, appeal, and regulations, is amended to read as follows:

<< AR ST § 8-1-106 >>

(B) Submits the information on forms developed by the department **division**.

SECTION 2429. Arkansas Code § 8-1-107 is amended to read as follows:

<< AR ST § 8-1-107 >>

8–1–107. Inspections — Definitions — Investigations — Inspection warrant — Exceptions — Penalties.

(a) General. Whenever it shall be necessary for the purpose of implementing or monitoring the enforcement of any law charged to the authority of the Arkansas Department **Division** of Environmental Quality, any authorized employee or agent of the department **division** may enter upon any public or private property for the purpose of obtaining information or conducting investigations or inspections, subject to the following provisions.

(b) Definitions. As used in this section, the following terms shall have these ascribed meanings:

(1) “Administrative inspections” means investigation by department **division** personnel at facilities operating within the department's **division's** apparent regulatory jurisdiction;

(2) “Facility” means the public or private area, premises, curtilage, building, or conveyance described as the subject of administrative inspection;

(3) “Pervasively regulated facility or activity” means the activity or facility that is the location of activity authorized by the department **division** through a permit, license, certification, or operational status approval; and

(4)(A) “Probable cause” means showing that an administrative search limited in scope is necessary to ensure compliance with or enforcement of laws, regulations, or orders charged to the department **division** for implementation.

(B) For the purpose of conducting administrative inspections or applying for administrative warrants, probable cause may be provided to the department **division** through complaints or other means that reasonably justify a limited and controlled administrative inspection.

(c) Administrative Inspections.

(1)(A) Whenever the department **division** obtains information that supports reasonable cause to believe that a violation of any law within its regulatory authority is being or has been violated, or that unauthorized regulated conduct is occurring or has occurred, department **division** personnel or its agents may demand entry onto any property, public or private, to inspect any facility.

(B) The department's **division's** investigation or inspection shall be limited to that necessary to confirm or deny the cause which prompted the investigation or inspection, and shall be conducted during daylight, during regular business hours, or, under emergency or extraordinary circumstances, at a time necessary to observe the suspected violation or unauthorized conduct.

(C) Except under emergency circumstances, the department **division** shall inform such facility's owner or agent of all information which forms the basis of its probable cause at the time of the inspection.

(2) Nothing in this subsection shall be construed as requiring the department **division** to forfeit the element of surprise in its inspection efforts.

(3) Also, nothing in this section shall be construed as limiting the frequency of the periodic or random inspections of pervasively regulated facilities or activities.

(4) For the purpose of this section, a rebuttable presumption concerning the jurisdiction of the department's **division's** regulatory authority is established as it regards the department's **division's** authority to inspect any facility.

(d) Administrative Inspection Warrants. If consent to inspect is denied, the department **division** may obtain an administrative inspection warrant from a judicial officer. Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judicial officer otherwise authorized to issue search warrants within his or her jurisdiction may, upon proper oath or affirmation showing probable cause as defined by this section, issue warrants for the purpose of conducting administrative inspections authorized by any law or regulation administered by the ~~department~~ **division**;

(2) A warrant shall issue only upon an affidavit of a ~~department~~ **division** official, employee, or agent having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he or she shall issue a warrant identifying the facility to be inspected, and the purpose of the inspection. The warrant shall:

(A) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(B) Be directed to a ~~department~~ **division** officer or employee;

(C) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified;

(D) Specifically identify any documents or samples to be gathered during the inspection;

(E) Direct that it be served during normal business hours unless emergency or extraordinary circumstances compel otherwise; and

(F) Designate the judge or magistrate to whom it shall be returned;

(3) If appropriate, the warrant may authorize the review and copying of documents which may be relevant to the purpose of the inspection. If documents must be seized for the purpose of copying, the person serving the warrant shall prepare an inventory of documents taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or facility the documents were taken, if present, or in the presence of at least one (1) credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose facility the documents were taken. The seized documents shall be copied as soon as feasible under circumstances preserving their authenticity, then returned to the person from whom the documents were taken;

(4) The warrant may authorize the taking of samples of materials generated, stored, or treated at the facility, or of the water, air, or soils within the facility's control or that may have been affected by the facility's operations. The person executing the warrant shall prepare an inventory of all samples taken. In any inspection conducted pursuant to an administrative warrant in which such samples are taken, the ~~department~~ **division** shall make split samples available to the person whose facility is being inspected;

(5) A warrant issued pursuant to this section must be executed and returned within ten (10) days of its date unless, upon a showing of a need for additional time, the court orders otherwise. The return of the warrant shall be made promptly, accompanied by a written inventory of any documents or samples taken;

(6) The judge or magistrate who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the circuit court for the judicial district in which the inspection was made;

(7) This subsection does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with duly adopted administrative procedures; and

(8) A copy of the warrant and all supporting affidavits shall be provided to the person served, or left at the entry of the facility inspected.

(e) **Administrative Inspection Warrants — Exceptions.** Notwithstanding the previous subsection, an administrative warrant shall not be required for any inspection, including the review and copying of documents and taking of samples, under the following circumstances:

(1) For pervasively regulated facilities or activities as defined by this section whose permit, license, certification, or operational approval from the ~~department~~ **division** provides notice that the ~~department~~ **division** may inspect regulated activities to assure compliance. If the ~~department~~ **division** has reason to believe that a violation of any law has or is occurring, the basis for such belief shall be communicated at the time of the inspection;

(2) If the owner, operator, or agent in charge of the facility consents;

(3) In situations presenting imminent danger to public health and safety or the environment;

(4) In situations involving inspection of conveyances, if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(5) In any other exception or emergency circumstance when time or opportunity to apply for a warrant is lacking;

(6) In situations involving conditions that may be observed in an open field, from an area practically open to public access, or in plain view; or

(7) In all other situations in which a warrant is not constitutionally required.

(f) **Penalties.** Any willful and unjustified refusal of right of entry and inspection to ~~department~~ **division** personnel as set out in this section shall constitute a misdemeanor subject to a fine of up to twenty-five thousand dollars (\$25,000) or civil penalties up to twenty-five thousand dollars (\$25,000).

SECTION 2430. Arkansas Code § 8–1–201 is amended to read as follows:

<< AR ST § 8–1–201 >>

8–1–201. Legislative intent.

(a) The General Assembly recognizes that since 1949, when the precursor of the Arkansas Pollution Control and Ecology Commission was first created, significant changes have occurred in the responsibilities charged to the state's environmental agency. This subchapter intends to clarify and supersede prior law that does not comport with this delineation of responsibility between the ~~Arkansas Department~~ **Division** of Environmental Quality and the commission.

(b) Further, in delineating the responsibility between the ~~department~~ **division** and the commission, it is the intent of the General Assembly neither to expand nor to diminish any rights of property owners of this state under Arkansas Constitution, Article 2, § 22.

SECTION 2431. Arkansas Code § 8–1–202 is amended to read as follows:

<< AR ST § 8–1–202 >>

8–1–202. Powers of the Director of the ~~Arkansas Department~~ **Division of Environmental Quality.**

(a) ~~The executive head of the Arkansas Department of Environmental Quality shall be the Director of the Arkansas Department of Environmental Quality, who shall be appointed by the Governor with the consent of the Senate. The director shall serve at the pleasure of the Governor.~~

(b)(1) (a) The director **Director of the Division of Environmental Quality** shall be the executive officer and active administrator of all pollution control activities in the state.

(2) (b) As such, the director's duties shall include:

(A)(i) **(1)(A)** The administration of permitting, licensing, certification, and grants programs deemed necessary to protect the environmental integrity of the state.

(ii) **(B)** The director, or his or her delegatee within his or her staff, shall serve as the issuing authority for the state;

(B)(i) **(2)(A)** Initiation and settlement of civil or administrative enforcement actions to compel compliance with laws, orders, and regulations charged to the responsibility of the department **Division of Environmental Quality**.

(ii) **(B)** In this regard, the director may propose the assessment of civil penalties as provided by law and take all actions necessary to collect such penalties;

(C) **(3)** Issuance of orders in such circumstances that reasonably require emergency measures to be taken to protect the environment or the public health and safety, except to the extent that the matter involved is reserved to the jurisdiction or orders of the Arkansas Pollution Control and Ecology Commission for rulemaking procedures in § 8-4-202;

(D) **(4)** Day-to-day administration of all activities that the department **division** is empowered by law to perform, including, but not limited to, the employment and supervision of such technical, legal, and administrative staff, within approved appropriations **and with the approval of the Secretary of the Department of Energy and Environment**, as is necessary to carry out the responsibilities vested with the department **division**;

(E) **(5)** Providing technical and legal expertise and assistance in the field of environmental protection to other agencies and subdivisions of the state as appropriate;

(F) **(6)** Day-to-day administration of environmental programs delegated to the State of Arkansas by the responsible agencies of the United States Government;

(G) **(7)** The supervision of the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality under the Arkansas Energy Reorganization and Policy Act of 1981, § 15-10-201 et seq.; ~~and~~

(H) **(8)** Any other power or duty specifically vested with the director or department **division** by the General Assembly **or the secretary; and**

(9) The supervision of the Division of Environmental Preservation or the successor division, office, or unit responsible for reviewing and making specific ecologically oriented recommendations on all plans, programs, and projects of all other state departments, divisions, agencies, and commissions and on all federal plans, programs, and projects affecting this state.

SECTION 2432. Arkansas Code § 8-1-203(b)(1)(A), concerning the powers and responsibilities of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-1-203 >>

(1)(A) Promulgation of rules and regulations implementing the substantive statutes charged to the ~~Arkansas Department~~ **Division** of Environmental Quality for administration.

SECTION 2433. Arkansas Code § 8-1-203(b)(4), concerning the powers and responsibilities of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-1-203 >>

(4) In the case of permitting or grants decisions, providing the right to appeal a permitting or grants decision rendered by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or his or her delegatee;

SECTION 2434. Arkansas Code § 8-1-203(b)(7), concerning the powers and responsibilities of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-1-203 >>

(7) Make recommendations to the director regarding overall policy and administration of the ~~department~~ **division**. However, the director shall always remain within the plenary authority of the Governor; and

SECTION 2435. Arkansas Code § 8-1-204 is amended to read as follows:

<< AR ST § 8-1-204 >>

8-1-204. Administrative law judge.

(a) The Arkansas Pollution Control and Ecology Commission shall employ a full-time administrative law judge to perform functions and duties that the commission shall direct and, in particular, to advise the commission on matters of law and procedure that may arise during the conduct of commission duties and responsibilities as outlined in §§ 8-1-203, 8-4-201, 8-4-202, 8-4-311, 8-5-205, and 8-6-207, or as otherwise provided by law.

(b) The administrative law judge shall be selected and hired by the commission and shall be independent of and not an employee of the ~~Arkansas Department~~ **Division** of Environmental Quality.

(c) The expenses of the administrative law judge shall be paid from the ~~Arkansas Department~~ **Division** of Environmental Quality Fee Trust Fund or from other sources as provided by law.

(d) The office space for the administrative law judge shall be at a location other than the offices of the ~~department~~ **division**.

(e) An administrative assistant II shall be supervised by and provide assistance to the administrative law judge authorized in this section.

(f) The disbursing officer of the ~~department~~ **division** shall disburse the funds appropriated for the commission's administrative law judge.

SECTION 2436. Arkansas Code § 8-1-302(2), concerning the definition of “director” under the laws regarding the Arkansas Pollution Control and Ecology Commission and the Director of the Arkansas Department of Environmental Quality, is repealed.

<< AR ST § 8–1–302 >>

(2) “Director” means the Director of the Arkansas Department of Environmental Quality;

SECTION 2437. Arkansas Code § 8–1–305(1)(C), concerning exceptions to the environmental audit privilege, is amended to read as follows:

<< AR ST § 8–1–305 >>

(C) A determination, a permit, or an order made or issued by the commission or the Director of the Arkansas Department **Division** of Environmental Quality; or

SECTION 2438. Arkansas Code § 8–1–307(a)(3)(C), concerning disclosure in civil or administrative proceedings, is amended to read as follows:

<< AR ST § 8–1–307 >>

(C) A determination, permit, or order issued by the commission or the Director of the Arkansas Department **Division** of Environmental Quality; and

SECTION 2439. Arkansas Code § 8–1–307(b)(2)(A), concerning disclosure in civil or administrative proceedings, is amended to read as follows:

<< AR ST § 8–1–307 >>

(2)(A) In the event additional time is required to prepare a permit application, the person shall, within ninety (90) days, submit a schedule to the Arkansas Department **Division** of Environmental Quality that identifies the activities required to complete the application, and, if the schedule is acceptable to the department **division**, the filing of the application pursuant to the submitted schedule shall constitute reasonable diligence to achieve compliance for a failure to obtain a required permit.

SECTION 2440. Arkansas Code § 8–2–202 is amended to read as follows:

<< AR ST § 8–2–202 >>

8–2–202. Purpose.

This subchapter authorizes the Arkansas Department **Division** of Environmental Quality to establish and administer an environmental laboratory accreditation program so that laboratories that submit data and analyses to the department **division** may be accredited by the department **division** as having demonstrated acceptable compliance with laboratory standards so that the validity of scientific data submitted to the department **division** may be further assured.

SECTION 2441. Arkansas Code § 8–2–203(1) and (2), concerning the definition of “acceptable results” and “accreditation” under the Environmental Laboratory Accreditation Program Act, are amended to read as follows:

<< AR ST § 8–2–203 >>

(1) “Acceptable results” means results within limits determined on the basis of statistical procedures as prescribed by the ~~Arkansas Department~~ **Division** of Environmental Quality;

(2) “Accreditation” means the process by which the ~~department~~ **division** recognizes a laboratory as meeting certain predetermined qualifications or standards, thereby accrediting the laboratory;

SECTION 2442. Arkansas Code § 8–2–203(4), concerning the definition of “certificate” under the Environmental Laboratory Accreditation Program Act, is amended to read as follows:

<< AR ST § 8–2–203 >>

(4) “Certificate” means a document issued by the ~~department~~ **division** showing the analytes for which a laboratory has received accreditation;

SECTION 2443. Arkansas Code § 8–2–203(7)(A), concerning the definition of “laboratory” under the Environmental Laboratory Accreditation Program Act, is amended to read as follows:

<< AR ST § 8–2–203 >>

(7)(A) “Laboratory” means any facility that performs analyses to determine the chemical, physical, or biological properties of air, water, solid waste, hazardous waste, wastewater, or soil or subsoil materials or that performs any other analyses related to environmental quality evaluations required by the ~~department~~ **division** or which will be submitted to the ~~department~~ **division**.

SECTION 2444. Arkansas Code § 8–2–204(a), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–2–204 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality shall have the following powers and duties under this subchapter:

(1) To establish and administer the Environmental Laboratory Accreditation Program for laboratories applying for accreditation by the ~~department~~ **division**;

(2) To enforce the provisions of this subchapter and all laws, rules, and regulations relating to the program and to environmental testing;

(3) To issue, deny, revoke, or suspend the accreditation of a laboratory for cause; and

(4) To refuse to accept analytical results from a laboratory when the ~~department~~ **division** reasonably determines that the results do not meet reasonable criteria for validation, regardless of whether the laboratory is accredited.

SECTION 2445. Arkansas Code § 8–2–206 is amended to read as follows:

<< AR ST § 8–2–206 >>

8–2–206. Accreditation — Criteria and procedure.

(a)(1)(A)(i) All consulting laboratories performing analyses for which results are to be submitted to the Arkansas Department **Division** of Environmental Quality shall obtain a laboratory accreditation under this subchapter.

(ii) An analyte, method, or matrix for which the Environmental Laboratory Accreditation Program does not provide accreditation shall be evaluated by the department **division** for acceptance.

(B) The department **division**, in its sole discretion, may refuse to accept results of analyses performed by a consulting laboratory that does not hold a laboratory accreditation under the program for the reason that the laboratory is not accredited.

(2) Accreditation for laboratories other than consulting laboratories shall not be mandatory.

(b) Applications for accreditation shall be made in the form and manner established by the department **division**.

(c) Upon receipt of an application for accreditation, the department **division** shall evaluate and act upon the application in accordance with the following procedures and criteria:

(1)(A) The laboratory must successfully complete an evaluation.

(B) The department **division** shall establish evaluation criteria on proper analytical techniques, quality assurance, recordkeeping, and reporting methods and procedures and facilities, equipment, and personnel requirements; and

(2) The laboratory must submit to the department **division** acceptable results from its analysis of proficiency test samples for the specific analytes, methods, and matrices selected for accreditation.

(d) Upon completion of the laboratory evaluation and the review of the proficiency test sample results, the department **division** shall notify the laboratory of its determination to award or deny accreditation.

(e)(1) If the adequacy of the laboratory's capability and its recordkeeping have been sufficiently established to the satisfaction of the department **division**, a certificate will be issued to the laboratory for the evaluated categories of analytes, methods, and matrices.

(2) If accreditation is denied, the department **division** shall set forth, in writing, the reasons for denial.

SECTION 2446. Arkansas Code § 8-2-207(b), concerning the accreditation, duration, and renewal of a certificate of accreditation, is amended to read as follows:

<< AR ST § 8-2-207 >>

(b) Accreditation may be renewed for additional periods of one (1) year's duration upon application for renewal made to the Arkansas Department **Division** of Environmental Quality.

SECTION 2447. The introductory language of Arkansas Code § 8-2-208(a), concerning laboratory accreditation and revocation by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-2-208 >>

(a) After a laboratory is accredited, the laboratory's accreditation may be revoked or suspended by the Arkansas Department **Division** of Environmental Quality for:

SECTION 2448. Arkansas Code § 8–2–208(b)(1) and (2), concerning laboratory accreditation and revocation by the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 8–2–208 >>

- (1) To knowingly falsify any data submitted to the ~~department~~ **division** or any data related to laboratory analysis;
- (2) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document issued by or sent to the ~~department~~ **division** or related to laboratory analysis;

SECTION 2449. Arkansas Code § 8–2–209(a)(1), concerning fees collected by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–2–209 >>

(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 2450. Arkansas Code § 8–3–102(b)(1), concerning ambient air quality and hydrogen sulfide, is amended to read as follows:

<< AR ST § 8–3–102 >>

(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 2451. Arkansas Code § 8–3–102(b)(2)(C), concerning ambient air quality and hydrogen sulfide, is amended to read as follows:

<< AR ST § 8–3–102 >>

(C) Cost to the regulated community and the ~~department~~ **division**.

SECTION 2452. Arkansas Code § 8–3–103(b), concerning hydrogen sulfide emissions, is amended to read as follows:

<< AR ST § 8–3–103 >>

(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 2453. Arkansas Code § 8–3–103(d)(2)(C), concerning hydrogen sulfide emissions, is amended to read as follows:

<< AR ST § 8–3–103 >>

(C) A facility that is not subject to one (1) of the technology limits listed in subdivision (d)(2)(B) of this section and that wishes to apply appropriate hydrogen sulfide control technology may apply to the ~~department~~ **division** for a determination of appropriateness at any time, but no later than ninety (90) days after a determination that the ambient standard has been exceeded. The application shall be made on such forms and contain such information as the ~~department~~ **division** may require and shall include a reasonable time schedule for implementation. When making a determination of appropriateness, the ~~department~~ **division** shall follow the procedures used for making permitting decisions, including public participation requirements.

SECTION 2454. Arkansas Code § 8–3–202(3), concerning the definition of “state plan” under the laws regarding state emission plans, is amended to read as follows:

<< AR ST § 8–3–202 >>

(3) “State plan” means a plan to establish and enforce carbon dioxide emission control measures that the ~~Arkansas Department~~ **Division** of Environmental Quality may adopt to implement the obligations of the state under the federal emission guidelines.

SECTION 2455. Arkansas Code § 8–3–203(a)(1), concerning the state emission plan's being dependent on federal emission guidelines, is amended to read as follows:

<< AR ST § 8–3–203 >>

(a)(1) This subchapter does not require the ~~Arkansas Department~~ **Division** of Environmental Quality to develop a state plan to regulate carbon dioxide emissions from existing fossil-fuel-fired electric generating units under § 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d).

SECTION 2456. Arkansas Code § 8–3–204 is amended to read as follows:

<< AR ST § 8–3–204 >>

8–3–204. Appeal of state plan — Adjudicatory process.

(a) If the ~~Arkansas Department~~ **Division** of Environmental Quality proposes to finalize a state plan submittal for review and approval by the United States Environmental Protection Agency, the ~~department~~ **division** shall comply with the procedural requirements for notice and public comment specified in § 8–4–317.

(b)(1) Only a person or an organization that submits comments on the record during the public comment period has standing to appeal the final decision of the ~~department~~ **division** to the Arkansas Pollution Control and Ecology Commission upon written application made within thirty (30) days after the service of notice made under § 8–4–317(b)(2)(A).

(2) An appeal under subdivision (b)(1) of this section shall be processed as a permit appeal under § 8–4–205.

SECTION 2457. Arkansas Code § 8–3–205(a), concerning assessing the effects of the state emission plan, is amended to read as follows:

<< AR ST § 8–3–205 >>

(a) Before preparing a petition to initiate rulemaking for the development of regulations implementing a state plan for regulating carbon dioxide emissions from covered electric generating units, the ~~Arkansas Department~~ **Division** of Environmental Quality shall prepare a report that takes into account the factors specified in § 8–4–312 and the Clean Air Act, 42 U.S.C. § 7401 et seq., as applicable.

SECTION 2458. The introductory language of Arkansas Code § 8–3–205(b)(1), concerning assessing the effects of the state emission plan, is amended to read as follows:

<< AR ST § 8–3–205 >>

(b)(1) In addition to the report specified in subsection (a) of this section, the ~~department~~ **division** shall coordinate with the Arkansas Public Service Commission in the preparation of a report that assesses the effects of the state plan on the electric power sector, including without limitation:

SECTION 2459. The introductory language of Arkansas Code § 8–3–205(b)(2), concerning assessing the effects of the state emission plan, is amended to read as follows:

<< AR ST § 8–3–205 >>

(2) The ~~department~~ **division** shall further coordinate with the Arkansas Economic Development Commission in the preparation of a report that assesses the effects of the state plan on the electricity consumers within the state, including without limitation:

SECTION 2460. Arkansas Code § 8–3–205(c), concerning assessing the effects of the state emission plan, is amended to read as follows:

<< AR ST § 8–3–205 >>

(c) The reports required by this section shall be included with any petition filed by the ~~department~~ **division** to initiate rulemaking for regulations that implement a state plan for regulating carbon dioxide emissions from covered electric generating units.

SECTION 2461. The introductory language of Arkansas Code § 8–3–206(a), concerning submission of the state emission plan, is amended to read as follows:

<< AR ST § 8–3–206 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality shall not submit a state plan to the United States Environmental Protection Agency under § 8–3–207 if the state plan:

SECTION 2462. The introductory language of Arkansas Code § 8–3–206(b), concerning submission of the state emission plan, is amended to read as follows:

<< AR ST § 8-3-206 >>

(b) The ~~department~~ **division** shall not submit a state plan to the United States Environmental Protection Agency until:

SECTION 2463. Arkansas Code § 8-3-207(a), concerning procedures for approval of the state emission plan, is amended to read as follows:

<< AR ST § 8-3-207 >>

(a) Not later than fifteen (15) days after adopting a state plan, the ~~Arkansas Department~~ **Division** of Environmental Quality shall transmit to the cochairs of the Legislative Council a copy of the state plan and the accompanying report developed under § 8-3-205.

SECTION 2464. Arkansas Code § 8-3-207(c), concerning procedures for approval of the state emission plan, is amended to read as follows:

<< AR ST § 8-3-207 >>

(c) If the Legislative Council fails to approve a state plan under subsection (b) of this section, the ~~department~~ **division** may submit a revised version of the state plan, with an accompanying revised report, to the cochairs of the Legislative Council for approval under this section.

SECTION 2465. Arkansas Code § 8-3-207(d)(1), concerning procedures for approval of the state emission plan, is amended to read as follows:

<< AR ST § 8-3-207 >>

(1) Sufficient time has passed for the Legislative Council to consider a state plan submitted by the ~~department~~ **division** for legislative approval;

SECTION 2466. Arkansas Code § 8-3-208 is amended to read as follows:

<< AR ST § 8-3-208 >>

8-3-208. Rate and reliability safety valve.

(a) If a state plan approved under this subchapter would result in a significant increase in the total electric or natural gas bill annually for any customer class, the ~~Arkansas Department~~ **Division** of Environmental Quality shall reopen the proceeding under § 8-3-204 and, after the opportunity for a hearing, revise the state plan to satisfy § 8-3-206(a)(1) and transmit the revised state plan to the cochairs of the Legislative Council for approval under § 8-3-207.

(b)(1) Each year the ~~department~~ **division** shall evaluate the impact of electricity rate increases on the energy-intensive-trade-exposed manufacturers and the resulting greenhouse gas leakage.

(2) If increased electric rates are found to be contributing to increased manufacturing greenhouse gas leakage, the ~~department~~ **division** shall reopen the proceeding under § 8-3-204 and, after the opportunity for a hearing, revise the state plan to avoid manufacturing greenhouse gas leakage and transmit the revised state plan to the cochairs of the Legislative Council for approval under § 8-3-207.

SECTION 2467. Arkansas Code § 8–4–103(a)(1)(A), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–103 >>

(1)(A) Any person that violates any provision of this chapter, that commits any unlawful act under it, or that violates any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission or the ~~Arkansas Department~~ **Division** of Environmental Quality shall be guilty of a misdemeanor.

SECTION 2468. Arkansas Code § 8–4–103(a)(2)(A)(i), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–103 >>

(i) Violate any provision of this chapter, commit any unlawful act under it, or violate any rule, regulation, or order of the commission or ~~department~~ **the Division of Environmental Quality** and leave the state or remove his or her person from the jurisdiction of this state;

SECTION 2469. The introductory language of Arkansas Code § 8–4–103(b), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–103 >>

(b) Civil Penalties. The ~~department~~ **Division of Environmental Quality** may institute a civil action in any court of competent jurisdiction to accomplish any of the following:

SECTION 2470. The introductory language of Arkansas Code § 8–4–103(b)(3), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–103 >>

(3) Recover all costs, expenses, and damages to the ~~department~~ **Division of Environmental Quality** and any other agency or division of the state in enforcing or effectuating the provisions of this chapter, including, but not limited to, natural resource damages;

SECTION 2471. Arkansas Code § 8–4–103(c)(2)(C), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–103 >>

(C) These administrative procedures may also be used to recover all costs, expenses, and damages to the department **Division of Environmental Quality** and any other agency or subdivision of the state in enforcing or effectuating the provisions of this chapter, including, but not limited to, natural resource damages.

SECTION 2472. Arkansas Code § 8–4–103(d)(1)(A), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–103 >>

(d)(1)(A) Before assessing a civil penalty under subsection (c) of this section, the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality shall provide public notice of and a reasonable opportunity to comment on the proposed issuance of the order.

SECTION 2473. Arkansas Code § 8–4–103(f)(1), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–103 >>

(f)(1) All moneys collected as reimbursement for expenses, costs, and damages to the department **Division of Environmental Quality** shall be deposited into the operating fund of the department **Division of Environmental Quality**.

SECTION 2474. Arkansas Code § 8–4–103(f)(3)(B) and (C), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 8–4–103 >>

(B) The violator may provide in-kind services or cash contributions as directed by the department **Division of Environmental Quality** by utilizing the violator's own expertise, by hiring and compensating subcontractors to perform the services, by arranging and providing financing for the services, or by other financial arrangements initiated by the department **Division of Environmental Quality** in which the violator and the department **Division of Environmental Quality** retain no monetary benefit, however remote.

(C) The services shall not duplicate or augment services already provided by the department **Division of Environmental Quality** through appropriations of the General Assembly.

SECTION 2475. Arkansas Code § 8–4–103(l)(3)(A), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–103 >>

(3)(A) The department **Division of Environmental Quality** may seize any cleaning agent held for sale or distribution in violation of this chapter.

SECTION 2476. Arkansas Code § 8-4-104(b)-(g), concerning the members of the Arkansas Pollution Control and Ecology Commission, are amended to read as follows:

<< AR ST § 8-4-104 >>

(b) The Arkansas Pollution Control and Ecology Commission shall be composed of ~~thirteen (13)~~ **fifteen (15)** members:

(1)(A) The Governor, by and with the advice and consent of the Senate, shall appoint ~~seven (7)~~ **eight (8)** members.

(B) Each congressional district shall be represented on the Arkansas Pollution Control and Ecology Commission by at least one (1) member, and no district shall have more than two (2) members of the ~~seven (7)~~ **eight (8)** appointees.

(C)(i) The Governor shall not appoint a member to represent any specific or special interest group, organization, or philosophy.

(ii) However, in making appointments to the Arkansas Pollution Control and Ecology Commission, the Governor shall appoint individuals who have knowledge or expertise in matters within the jurisdiction of the Arkansas Pollution Control and Ecology Commission, including government, business or industry, agriculture and livestock, forestry, health, ecology, recreation and tourism, and geology.

(D) Each member appointed by the Governor shall be appointed for a term of four (4) years; and

(2) The other ~~six (6)~~ **seven (7)** members of the Arkansas Pollution Control and Ecology Commission shall be:

(A) The ~~Director~~ **Secretary** of the Department of Health, or his or her designee; and

(B) ~~(i) The directors of the Arkansas State Game and Fish Commission, the Arkansas Forestry Commission, the Arkansas Natural Resources Commission, the Oil and Gas Commission, and the Arkansas Geological Survey.~~
The Secretary of the Department of Agriculture, or his or her designee;

~~(ii) Any director specified in subdivision (b)(2)(B)(i) of this section may designate the agency's deputy director or assistant director to serve in lieu of the director.~~

(C) The Director of the Arkansas State Game and Fish Commission, or his or her designee;

(D) The State Forester, or his or her designee on behalf of the Arkansas Forestry Commission;

(E) The Director of the Oil and Gas Commission, or his or her designee;

(F) The Director of the Arkansas Natural Resources Commission, or his or her designee; and

(G) The State Geologist, or his or her designee, on behalf of the Arkansas Geological Survey.

(c) Elected city, county, and state officials shall not serve on the Arkansas Pollution Control and Ecology Commission after the expiration of any current member's term.

(d) In the event of a vacancy in the membership of the Arkansas Pollution Control and Ecology Commission, the Governor shall appoint a person to fill the vacancy temporarily who shall serve until the next meeting of the Senate, when some person shall be appointed by the Governor, by and with the consent and approval of the Senate, to serve the remainder of the unexpired term.

(e)(1) The chair and vice chair shall be elected annually.

(2) The members of the Arkansas Pollution Control and Ecology Commission representing the state agencies shall not serve as chair or vice chair.

(f)(1)(A) The Arkansas Pollution Control and Ecology Commission shall hold at least four (4) regular meetings in each calendar year at times and places to be fixed by the Arkansas Pollution Control and Ecology Commission and such other meetings as may be necessary.

(B) Special meetings may be called at the discretion of the chair, and they shall be called by him or her upon written request of two (2) members of the Arkansas Pollution Control and Ecology Commission by delivery of written notice to each member of the Arkansas Pollution Control and Ecology Commission.

(2) Nine (9) members of the Arkansas Pollution Control and Ecology Commission shall constitute a quorum to transact business in both regular and special meetings.

(g)(1) Each member of the Arkansas Pollution Control and Ecology Commission representing state agencies shall receive no additional salary or per diem for services as a member of the Arkansas Pollution Control and Ecology Commission but may receive expense reimbursement in accordance with § 25–16–901 et seq.

(2) The other seven (7) members appointed by the Governor may receive expense reimbursement and stipends in accordance with § 25–16–901 et seq.

SECTION 2477. Arkansas Code § 8–4–105 is repealed.

<< Repealed: AR ST § 8–4–105 >>

~~8–4–105. Director of the Arkansas Department of Environmental Quality.~~

~~(a)(1) The executive head of the Arkansas Department of Environmental Quality shall be the Director of the Arkansas Department of Environmental Quality, who shall be appointed by the Governor with the advice and consent of the Senate, and shall serve at the pleasure of the Governor.~~

~~(2) The director, with the advice and consent of the Governor, shall appoint the heads of the divisions of the department, including the Division of Water Pollution Control, the Division of Air Pollution Control, the Division of Solid Waste Management, the Division of Environmental Preservation, the Division of Administration, and such other divisions as may be established.~~

~~(3) All of the personnel of the department shall be employed by and serve at the pleasure of the director. However, nothing in this subdivision (a)(3) shall be construed to reduce any right which an employee shall have under any civil service or merit system.~~

~~(b)(1) The director shall be the executive officer and active administrator of all pollution control activities.~~

~~(2) All of the powers of the Arkansas Pollution Control and Ecology Commission under §§ 8–4–201(b)(5), 8–4–203, and 8–4–204 relating to plans and specifications for disposal systems and permits for the discharge of sewage, industrial wastes, or other wastes into the waters of the state are vested in the director.~~

SECTION 2478. Arkansas Code § 8–4–106 is amended to read as follows:

<< AR ST § 8-4-106 >>

8-4-106. Technical and other services and public assistance.

(a) Technical, scientific, legal, or other services may be performed, insofar as practicable, by personnel of other state agencies and educational institutions and the Attorney General. However, the personnel of these state agencies shall receive no additional salary or wages for their services to the ~~Arkansas Department~~ **Division** of Environmental Quality.

(b) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, however, may employ and compensate, within appropriations available, consultants and such assistants and employees as may be necessary to carry out the provisions of this chapter and prescribe their powers and duties.

SECTION 2479. Arkansas Code § 8-4-107 is amended to read as follows:

<< AR ST § 8-4-107 >>

8-4-107. Prosecution of public nuisance actions.

In any legal action arising from, relating to, or including violations of laws or regulations charged to the enforcement authority of the ~~Arkansas Department~~ **Division** of Environmental Quality that also alleges the existence of a public nuisance at common law, the Attorney General or the ~~department~~ **division** may serve as the instrumentality of the state authorized to initiate and prosecute such action.

SECTION 2480. The introductory language of Arkansas Code § 8-4-201(a), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-4-201 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality or its successor is given and charged with the following powers and duties:

SECTION 2481. Arkansas Code § 8-4-201(b)(1)(A), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-4-201 >>

(1)(A) Promulgation of rules and regulations, including water quality standards and the classification of the waters of the state and moratoriums or suspensions of the processing of types or categories of permits, implementing the substantive statutes charged to the ~~department~~ **division** for administration.

SECTION 2482. Arkansas Code § 8-4-201(b)(3) and (4), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, are amended to read as follows:

<< AR ST § 8-4-201 >>

(3) Promulgation of rules and regulations governing administrative procedures for challenging or contesting ~~department~~ **division** actions;

(4) In the case of permitting or grants decisions, provide the right to appeal a permitting or grants decision rendered by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or his or her delegatee;

SECTION 2483. Arkansas Code § 8–4–201(b)(7), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–4–201 >>

(7) Make recommendations to the director regarding overall policy and administration of the ~~department~~ **division**, provided, however, that the director shall always remain within the plenary authority of the Governor **and the Secretary of the Department of Energy and Environment**; and

SECTION 2484. Arkansas Code § 8–4–202(a), concerning the rules and regulations of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–4–202 >>

(a) The Arkansas Pollution Control and Ecology Commission is given and charged with the power and duty to adopt, modify, or repeal, after notice and public hearings, rules and regulations implementing or effectuating the powers and duties of the ~~Arkansas Department~~ **Division** of Environmental Quality and the commission under this chapter.

SECTION 2485. Arkansas Code § 8–4–202(d)(4)(A)(iii), concerning the rules and regulations of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–4–202 >>

(iii) In all other cases, the ~~department~~ **division** must provide its own justification with appropriate references to the scientific and engineering literature or written studies conducted by the ~~department~~ **division**;

SECTION 2486. Arkansas Code § 8–4–202(e)(3), concerning the rules and regulations of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–4–202 >>

(3) The imminent loss of federal funding, certification, or authorization for any program administered by the ~~department~~ **division** shall establish a prima facie case of imminent peril to the public health, safety, or welfare.

SECTION 2487. Arkansas Code § 8–4–203 is amended to read as follows:

<< AR ST § 8–4–203 >>

8–4–203. Permits generally — Definitions.

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality or its successor is given and charged with the power and duty to issue, continue in effect, revoke, modify, or deny permits, under such conditions as it may prescribe:

(1) To prevent, control, or abate pollution;

(2) For the discharge of sewage, industrial waste, or other wastes into the waters of the state, including the disposal of pollutants into wells; and

(3) For the installation, modification, or operation of disposal systems or any part of them.

(b)(1)(A) The department **division** shall not issue, modify, renew, or transfer a National Pollutant Discharge Elimination System permit or state permit for a nonmunicipal domestic sewage treatment works without the permit applicant first:

(i) Paying the trust fund contribution fee required under subdivision (b)(4) of this section;

(ii) Submitting the assessment required by subdivision (b)(1)(D) of this section; and

(iii) Certifying that the permit applicant has complied with applicable local ordinances and regulations, including without limitation:

(a) Local zoning ordinances;

(b) Local planning authority regulations; and

(c) Local permitting requirements.

(B) As used in this section, “nonmunicipal domestic sewage treatment works” means a device or system operated by an entity other than a city, town, or county that treats, in whole or in part, waste or wastewater from humans or household operations and must continuously operate to protect human health and the environment despite a permittee's failure to maintain or operate the device or system.

(C) The following are specifically exempted from the requirements of this subsection:

(i) State or federal facilities;

(ii) Schools;

(iii) Universities and colleges;

(iv) Entities that continuously operate due to a connection with a city, town, or county; and

(v) A commercial or industrial entity that treats domestic sewage from its operations and does not accept domestic sewage from other entities or residences.

(D) Each application for the initial permit and any subsequent permit renewal, modification, or transfer for a nonmunicipal domestic sewage treatment works submitted under this section shall be accompanied by an assessment developed by a professional engineer licensed by the state that includes:

(i) A cost estimate for a third party to operate and maintain the nonmunicipal domestic sewage treatment works for five (5) years;

(ii) A list of all necessary capital expenditures, system upgrades, or significant repairs and a milestone schedule for completion within five (5) years; and

(iii) A financial plan that demonstrates to the department's **division's** satisfaction the permittee's financial ability to operate and maintain the nonmunicipal domestic sewage treatment works each year for five (5) years.

(E)(i) Except as provided under subdivision (b)(1)(E)(ii) of this section, the department **division** shall not issue, renew, or transfer permit coverage for nonmunicipal domestic sewage treatment works to property owners' associations or homeowners' associations after January 1, 2018.

(ii) A property owners' association or homeowners' association with permit coverage before December 31, 2017, may retain permit coverage if the property owners' association or homeowners' association complies with this section.

(2) Until January 1, 2016, the department **Arkansas Department of Environmental Quality or the Division of Environmental Quality** may reduce or waive the amount of the required financial assurance if the permit applicant can demonstrate to the department's **or division's** satisfaction that:

(A) For a renewal permit, during the five (5) years preceding the application for a renewal permit, the nonmunicipal domestic sewage treatment works has:

(i) Maintained the nonmunicipal domestic sewage treatment works in continuous operation;

(ii) Maintained the nonmunicipal domestic sewage treatment works in substantial compliance with the existing discharge permit issued by the department **or division**, which shall be demonstrated by submitting the following:

(a) All discharge monitoring reports;

(b) Evidence that the nonmunicipal domestic sewage treatment works has not exceeded the same permit effluent criteria in any two (2) consecutive monitoring periods during the previous three (3) years;

(c) Evidence that no more than ten percent (10%) of the nonmunicipal domestic sewage treatment works' submitted discharge monitoring reports show effluent violations; and

(d) Evidence that there have not been any administrative or judicial orders entered against the owner or operator for violations of state or federal environmental laws, rules, or regulations or permits issued by the department **or division**;

(iii) Maintained the services of a certified wastewater treatment operator, where applicable;

(iv)(a) Remained financially solvent, which shall be demonstrated by either:

(1) The nonmunicipal domestic sewage treatment works' federal tax returns for the five (5) years preceding the application for a renewal permit and a sworn affidavit from a corporate official or other responsible official representing the nonmunicipal domestic sewage treatment works that lists all assets and liabilities for the nonmunicipal domestic sewage treatment works; or

(2) An independent certified public accountant's report on the owner's or operator's independently reviewed financial statements.

(b) The review of financial statements under subdivision (b)(2)(A)(iv)(a)(2) of this section shall be conducted in accordance with the American Institute of Certified Public Accountants' Professional Standards, as they existed on January 1, 2013; and

(v) Operated the nonmunicipal domestic sewage treatment works to prevent the discharge of waterborne pollutants in unacceptable concentrations to the surface waters or groundwater of the state as defined in the permit or as defined in the state's water quality standards; or

(B) For a new permit:

(i) The reduction or waiver is necessary to accommodate important economic or social development in the area of the proposed nonmunicipal domestic sewage treatment works; and

(ii) The applicant has shown a history of financial responsibility and compliance with regulatory requirements.

(3) The ~~department~~ **division** may withdraw a reduction or waiver granted under this subsection at any time if the permittee has a permit violation in three (3) or more consecutive discharge monitoring periods.

(4)(A) A permittee shall pay the trust fund contribution fee determined by the ~~department~~ **division** under this subdivision (b)(4) to the ~~department~~ **division**.

(B)(i) The ~~department~~ **division** shall determine the required initial and annual trust fund contribution fees for each nonmunicipal domestic sewage treatment works based on each nonmunicipal domestic sewage treatment works' design treatment capacity according to the National Pollutant Discharge Elimination System permit or the state permit and existing and projected number of residential end users.

(ii)(a) The ~~department~~ **division** shall require an initial trust fund contribution fee for each construction permit for a new nonmunicipal domestic sewage treatment works or any modification to an existing nonmunicipal domestic sewage treatment works resulting in an increase in design treatment capacity according to the National Pollutant Discharge Elimination System permit or the state permit.

(b) The initial trust fund contribution fee required by the ~~department~~ **division** for a new nonmunicipal domestic sewage treatment works is ten percent (10%) of the estimated cost of construction of the new nonmunicipal domestic sewage treatment works as certified by the engineer of record.

(c) The initial trust fund contribution fee required by the ~~department~~ **division** for modifications to existing nonmunicipal domestic sewage treatment works is ten percent (10%) of the estimated cost of construction for the modification of the nonmunicipal domestic sewage treatment works as certified by the engineer of record.

(d) The ~~department~~ **division** shall reduce the initial trust fund contribution fee if:

(1) The nonmunicipal domestic sewage treatment works is subject to an enforcement action; and

(2) The corrective actions approved by the ~~department~~ **division** would require the nonmunicipal domestic sewage treatment works to make an initial trust fund contribution.

(e) The ~~department~~ **division** shall not require an initial trust fund contribution fee if the design treatment capacity according to the National Pollutant Discharge Elimination System permit or the state permit is not increased.

(iii) The annual trust fund contribution fee required by the ~~department~~ **division** shall not exceed one thousand dollars (\$1,000) per year for no-discharge permits or five thousand dollars (\$5,000) per year for discharge permits.

(iv)(a) Except as otherwise provided in this subsection, a nonmunicipal domestic sewage treatment works may apply for reimbursement for a maximum of fifty percent (50%) of the costs for capital expenditures necessary to maintain permit compliance made to the nonmunicipal domestic sewage treatment facility in the previous five (5) years if:

(1) Funding is available and appropriated; and

(2) The ~~department~~ **division** has issued that nonmunicipal domestic sewage treatment facility's third permit renewal following its initial trust fund contribution.

(b) Applications for reimbursement under this subdivision (b)(4)(B) shall include a statement certified by a professional engineer licensed by the State of Arkansas identifying the necessary capital costs expended.

(v) Reimbursements from the Nonmunicipal Domestic Sewage Treatment Works Trust Fund are subject to the following restrictions:

(a) Over the lifetime of a nonmunicipal domestic sewage treatment facility, the reimbursement to a nonmunicipal domestic sewage treatment works shall not exceed seventy-five percent (75%) of that nonmunicipal domestic sewage treatment facility's initial trust fund contribution fee;

(b) If the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality determines that a nonmunicipal domestic sewage treatment works is in a state of chronic noncompliance, that nonmunicipal domestic sewage treatment works shall not receive reimbursement from the Nonmunicipal Domestic Sewage Treatment Works Trust Fund; and

(c) The ~~department~~ **division** shall reimburse a nonmunicipal domestic sewage treatment works based on a pro rata share of each submitted request compared to the total remaining funding available if there are insufficient moneys available in a fiscal year to make reimbursements for all submitted requests under this subsection after:

(1) Deducting the moneys required to make payments to third-party contractors hired by the ~~department~~ **division** from the fund;

(2) Calculating the total remaining funding available; and

(3) Allocating the moneys available for reimbursement to each applicant for reimbursement.

(vi) The Arkansas Pollution Control and Ecology Commission may promulgate regulations to implement this subsection.

(C) The trust fund contribution fee required under this subdivision (b)(4):

(i) May be collected in conjunction with any other permit fees;

(ii) Shall be paid before a permit is issued or renewed; and

(iii) Shall be deposited into the fund.

(D) If the total amount in the fund equals or exceeds two million one hundred thousand dollars (\$2,100,000), additional trust fund contribution fees shall not be collected by the department **division** until the total amount of the fund equals or is less than one million five hundred thousand dollars (\$1,500,000), at which time the collection of required trust fund contribution fees shall resume.

(5)(A) A permittee is responsible for ensuring that the required trust fund contribution fee is received by the department **division** by the due date determined by the department **division**.

(B) If the department **division** does not timely receive the required trust fund contribution fees for a nonmunicipal domestic sewage treatment works, the department **division** may initiate procedures to suspend or revoke the permit under which the nonmunicipal domestic sewage treatment works is operated.

(C) A permit applicant's or permit transfer applicant's failure to pay the required trust fund contribution fee assessed by the department **division** under this section is:

(i) Grounds for denying the permit or the permit transfer; and

(ii) A violation of this chapter and subjects the applicant to the penalties described in § 8–4–103.

(6) Sanctions for violating this subsection may include without limitation civil penalties and suspension or revocation of a permit.

(7) The department **division** may seek cost recovery from an owner or operator and reimbursement to the fund of any moneys expended under this section, including without limitation the institution of a civil action against the owner or operator.

(8) The department **division** shall not directly operate or be responsible for the operation of a nonmunicipal domestic sewage treatment works.

(9)(A) The director or the director's designee may send a signed statement to each water service provider that serves all or a portion of the service area of a nonmunicipal domestic sewage treatment works certifying that the director finds that the nonmunicipal domestic sewage treatment works:

(i) Is the subject of an enforcement action by the department **division**;

(ii) Has not complied with the requirements of this section, including payment of the nonmunicipal domestic sewage treatment works trust fund contribution; or

(iii) Otherwise failed to comply with its permit.

(B) The department **division** shall include a legal description of the service area for the nonmunicipal domestic sewage treatment works with the signed statement under subdivision (b)(9)(A) of this section.

(C) Upon receipt of a signed statement that includes a legal description of the service area for the nonmunicipal domestic sewage treatment works, the water service provider shall not establish new connections or initiate service to existing connections for water service in the service area of the nonmunicipal domestic sewage treatment works as defined by the legal description.

(D) If the director or the director's designated representative finds that the nonmunicipal domestic sewage treatment works is no longer subject to an enforcement action or has remedied the noncompliance that formed the basis for the signed statement under subdivision (b)(9)(A) of this section, the director or the director's designated

representative shall send a signed statement of the finding to each water service provider that received the prior statement.

(E) Upon receipt of the signed statement required under subdivision (b)(9)(D) of this section, the water service provider may resume installation of new connections or resume initiation of service to existing connections for water service.

(c)(1)(A)(i) All facilities that engage in land application or storage of fluids generated or utilized during exploration or production phases of oil or gas operations shall be closed in a manner that ensures protection of human health and the environment.

(ii) As used in this subsection, "land application or storage of fluids generated or utilized during exploration or production phases of oil or gas operations" means land farming through the controlled and repeated application of drilling fluids to a soil surface or the practice of receiving and storing said fluids from offsite for waste management.

(iii) Surface facilities associated with Class II injection wells are specifically excluded from the requirements of this subsection.

(iv) Land applications at the drilling or exploration site that are authorized under any general permit issued by the department **division** are excluded from the requirements of this subsection.

(B) By October 1, 2009, each existing permitted facility regulated under this subsection shall submit to the department **division** the following:

(i) A plan to close the permitted facility and make any site restoration deemed necessary by the department **division**;

(ii) A detailed cost estimate to close and restore the permitted facility that meets the requirements of this subsection and is approved by the department **division**; and

(iii) A financial mechanism that demonstrates to the department's **division's** satisfaction the permittee's financial ability to ensure adequate closure and any necessary restoration of the permitted facility in accordance with the requirements of this subsection.

(C) The department **division** shall not issue, modify, or renew a permit for facilities regulated under this subsection without the permit applicant first demonstrating to the department's **division's** satisfaction the applicant's financial ability to ensure adequate closure and any necessary restoration of the permitted facility in accordance with the requirements of this subsection.

(D)(i) The amount of any financial assurance required under this subsection shall be equal to or greater than the detailed cost estimate for a third party to close the permitted facility in accordance with closure plans approved by the department **division**.

(ii) The detailed cost estimate shall be prepared by an independent professional consultant.

(iii) On or before August 15 of each year, a permittee shall submit to the department **division** for approval a detailed cost estimate to close and restore the permitted facility in accordance with closure plans that have been approved by the department **division**.

(E)(i) For new permits, the applicant shall submit to the department **division** for approval a detailed cost estimate to close and restore the facility based on the proposed operation and capacity of the facility from the date the permit is issued through the following October 1.

(ii) For renewal or modification applications, the permittee shall submit to the department **division** for approval a detailed cost estimate to close and restore the permitted facility based on closure plans that have been approved by the department **division**.

(F)(i) For each permit, the financial assurance mechanism shall be renewed on October 1 of each year.

(ii) For each permit, documentation that the required financial assurance mechanism has been renewed beginning October 1 of that year shall be received by the department **division** by September 15 of each year or the department **division** shall initiate procedures to:

(a) Take possession of the funds guaranteed by the financial assurance mechanism; and

(b)(1) Suspend or revoke the permit under which the facility is operated.

(2) A permit shall remain suspended until a financial assurance mechanism is provided to the department **division** in accordance with this subsection.

(iii) The permittee is responsible for ensuring that documentation of annual renewal is received by the department **division** by its due date.

(2) The permittee or applicant shall demonstrate financial ability to adequately close or restore the land application or storage facility by:

(A) Obtaining insurance that specifically covers closure and restoration costs;

(B) Obtaining a letter of credit;

(C) Obtaining a bond or other surety instrument;

(D) Creating a trust fund or an escrow account;

(E) Combining any of the instruments in subdivisions (c)(2)(A)–(D) of this section; or

(F) Any other financial instrument approved by the director.

(3) A financial instrument required by this subsection shall:

(A) Be posted to the benefit of the department **division**;

(B) Provide that the financial instrument cannot be canceled without sixty (60) days' prior written notice addressed to the department's **division's** legal division chief as evidenced by a signed, certified mail with a return receipt request; and

(C) Be reviewed by the department **division** upon receipt of the cancellation notice to determine whether to initiate procedures to revoke or suspend the facility's permit and whether to initiate procedures to take possession of the funds guaranteed by the financial assurance mechanism.

(4) Before the department **division** may release a financial assurance mechanism, the department **division** shall receive a certification by a professional engineer that the permitted facility has been closed and restored in accordance with closure plans that have been approved by the department **division**.

(5) The department **division** is not responsible for the operation, closure, or restoration of a facility regulated under this subsection.

(d)(1) When an application for the issuance of a new permit or a major modification of an existing permit is filed with the department **division**, the department **division** shall cause notice of the application to be published in a newspaper of general circulation in the county in which the proposed facility is to be located.

(2) The notice required by subdivision (d)(1) of this section shall advise that any interested person may request a public hearing on the permit application by giving the department **division** a written request within ten (10) days of the publication of the notice.

(3)(A) If the department **division** determines that a hearing is necessary or desires such a hearing, the department **division** shall schedule a public hearing.

(B)(i) If the department **division** schedules a public hearing, the department **division** shall notify the applicant and all persons who have submitted comments of the date, time, and place of the public hearing.

(ii) The notice shall be provided using one (1) of the following methods based on the contact information available for the applicant or the person and the director's discretion:

(a) First class mail; or

(b) Email.

(e)(1)(A) Whenever the department **division** proposes to grant or deny any permit application, it shall cause notice of its proposed action to be published in either:

(i) A newspaper of general circulation in the county in which the facility that is the subject of the application is located; or

(ii) In the case of a statewide permit, in a newspaper of general circulation in the state.

(B) The notice shall afford any interested party thirty (30) calendar days in which to submit comments on the proposed permit action.

(C)(i) At the conclusion of the public comment period, the department **division** shall provide a final written permitting decision regarding the permit application.

(ii) The final written permitting decision shall be published on the department's **division's** website.

(iii) The department **division** shall provide the applicant the final permitting decision using one (1) of the following methods based on the contact information available and the director's discretion:

(a) First class mail; or

(b) Email.

(iv) The department **division** shall provide notice of the final permitting decision to all persons who have submitted comments using one (1) of the following methods based on the contact information available and the director's discretion:

(a) First class mail; or

(b) Email.

(2)(A)(i) The department's **division's** final decision shall include a response to each issue raised in any public comments received during the public comment period. The response shall manifest reasoned consideration of the issues raised by the public comments and shall be supported by appropriate legal, scientific, or practical reasons for accepting or rejecting the substance of the comment in the department's **division's** permitting decision.

(ii) For the purposes of this section, response to comments by the department **division** should serve the roles of both developing the record for possible judicial review of an individual permitting action and as a record for the public's review of the department's **division's** technical and legal interpretations on long-range regulatory issues.

(iii) Nothing in this section, however, shall be construed as limiting the department's **division's** authority to raise all relevant issues of regulatory concern upon adjudicatory review of the commission of a particular permitting action.

(B)(i) In the case of any discharge limit, emission limit, environmental standard, analytical method, or monitoring requirements, the record of the proposed action and the response shall include a written explanation of the rationale for the proposal, demonstrating that any technical requirements or standards are based upon generally accepted scientific knowledge and engineering practices.

(ii) For any standard or requirement that is identical to an applicable regulation, this demonstration may be satisfied by reference to the regulation. In all other cases, the department **division** must provide its own justification with appropriate reference to the scientific and engineering literature or written studies conducted by the department **division**.

(f)(1) All costs of publication of notices of applications and notices of proposals to grant permits under this section shall be the responsibility of the applicant.

(2) All costs of publication of notices of proposals to deny a permit under this section shall be the responsibility of the department **division**.

(3) Any moneys received under this subsection shall be classified as refunds to expenditures.

(g) Only those persons that submit comments on the record during the public comment period and the applicant shall have standing to appeal the decision of the department **division** to the commission.

(h)(1) Permits for the discharge of pollutants into the waters of the state or for the prevention of pollution of the waters of the state shall remain freely transferable if the applicant for the transfer:

(A) Notifies the director at least thirty (30) days in advance of the proposed transfer date;

(B) Submits a disclosure statement as required under § 8–1–106;

(C) Provides any replacement financial assurance required under this section; and

(D) Ensures that all past and currently due annual permit fees and the trust fund contribution fees for the nonmunicipal domestic sewage treatment works have been paid.

(2) Only the reasons stated in §§ 8–1–103(4), 8–1–106(b)(1), 8–1–106(c), and this section constitute grounds for denial of a transfer.

- (3) The permit is automatically transferred to the new permittee unless the director denies the request within thirty (30) days of the receipt of the disclosure statement.
- (i) In the event of voluminous comments, including without limitation a petition, the ~~department~~ **division** may require the designation of a representative to accept any notices required by this section.
- (j) The notice provisions of subsections (d) and (e) of this section do not apply to permit transfers or minor modifications of existing permits.
- (k) This section in no way restricts local and county government entities from enacting more stringent ordinances regulating nonmunicipal domestic treatment sewage systems in Arkansas.
- (l) The commission may promulgate rules to establish a permit-by-rule. A permit-by-rule is subject to the public notice requirements and procedural provisions under § 8–4–202 et seq. but is not subject to the public notice requirements and procedural provisions under this section and §§ 8–4–204 and 8–4–205.
- (m)(1)(A)(i) The ~~department~~ **division** may issue general permits under subsection (a) of this section.
- (ii) A general permit is a statewide permit for a category of facilities or sources that:
- (a) Involve the same or substantially similar types of operations or activities;
 - (b) Discharge or release the same type of wastes or engage in the same type of disposal practices;
 - (c) Require the same limitations, operating conditions, or standards;
 - (d) Require the same or similar monitoring requirements; and
 - (e) In the opinion of the director, may be regulated under a general permit.
- (B)(i) Facilities or sources eligible to construct or operate under a general permit may obtain coverage by submitting a notice of intent to the ~~department~~ **division**.
- (ii) The director may require a person who has been granted coverage under a general permit to apply for and obtain an individual permit.
- (2)(A) A general permit is subject to the public notice requirements for statewide permits and the procedures under subsection (e) of this section.
- (B) The ~~department~~ **division** shall pay the costs of publication of notice of a draft permitting decision to issue a general permit.
- (C) General permit coverage is not transferable unless the general permit provides for transfer.
- (3)(A)(i) Before the submittal to public comment of a general permit that has not been previously issued, the ~~department~~ **division** shall consider the economic impact and environmental benefit of the general permit and its terms and conditions upon the people of the State of Arkansas, including those entities that may apply for coverage under the general permit.
- (ii) This requirement does not apply to general permits or terms or conditions that adopt the language of state or federal statutes or regulations without substantive change.

(B) If the terms and conditions of a previously issued general permit are revised upon renewal, the economic impact and environmental benefit of only the proposed changes shall be considered.

(C) A general permit for which costs are specifically prohibited from being considered by state or federal law or regulation is exempt from the requirements of this subsection.

(D) The ~~department~~ **division** may rely upon readily available information for its consideration of the economic impact and environmental benefit of the general permit and its terms and conditions.

(4)(A) Only those persons that submit comments on the record during the public comment period shall have standing to appeal the decision of the ~~department~~ **division** to the commission.

(B) The final permitting decision of the ~~department~~ **division** on the general permit is subject to a hearing before the commission under §§ 8-4-205, 8-4-212, 8-4-213, 8-4-214, and the administrative procedures promulgated by the commission.

(5)(A)(i) When a general permit includes an expiration date later than July 1, 2012, the ~~department~~ **Arkansas Department of Environmental Quality or the Division of Environmental Quality** shall publish the notice of intent to renew or not renew the general permit at least three hundred sixty-five (365) days before the expiration of the general permit.

(ii) When a general permit includes an expiration date earlier than July 1, 2012, the ~~department~~ **or the division** shall publish the notice of intent to renew or not renew the general permit as soon as reasonably possible.

(B) The ~~department~~ **or the division** shall publish its final permitting decision to renew or not renew the general permit at least one hundred eighty (180) days before the expiration date of the general permit.

(C) If the general permit expires before the final decision to renew or not renew the general permit, the terms and conditions of the general permit shall remain in effect, and all persons who obtained coverage under the general permit before its expiration shall retain coverage under the general permit until there has been a final permit decision on the general permit.

(D) In the event the ~~department~~ **or the division** makes a decision to not renew the general permit, existing coverage under the general permit shall continue under the terms of the expired permit until a final decision is reached for an individual permit.

(6)(A) If a general permit is appealed and the general permit expires before the final decision by the director or by the commission to renew or not renew the general permit, the terms and conditions of the general permit shall remain in effect.

(B) All persons who obtained coverage under the general permit before its expiration shall retain coverage under the general permit until there has been a final administrative decision on the general permit.

(C) The director shall not approve new coverage under an expired general permit for any facility for which a notice of intent was not filed before expiration of the general permit.

(n)(1) When an application for the issuance of a new permit for a liquid animal waste system or a modification of an existing permit for a liquid animal waste system is filed, the ~~department~~ **division** shall give notice of its proposed action in accordance with subdivision (e)(1)(A) of this section within one hundred twenty (120) days of receipt of the application.

(2)(A) At the conclusion of the public comment period, the ~~department~~ **division** shall announce in writing within sixty (60) days its final decision regarding the permit application in accordance with subdivision (e)(2)(A) of this section.

(B) For a modification that the ~~department~~ **division** considers to be minor in nature, the ~~department~~ **division** shall make its final decision regarding the permit application within thirty (30) days after receipt of the application.

(3) An applicant may waive in writing to the ~~department~~ **division** the timeliness requirement under subdivisions (n) (1) and (2) of this section.

(o)(1) If an application for modification of an existing state permit for a liquid animal waste management system is filed with the ~~department~~ **division**, only those permit conditions subject to the modification are open for review.

(2)(A) Except as provided in subdivision (o)(2)(B) of this section, an existing state permit for a liquid animal waste management system that is in good standing is not subject to review or third-party appeal for siting or location issues that were not raised during the applicable review or appeal period at the time of permit issuance.

(B) Subdivision (o)(2)(A) of this section does not limit the authority of the ~~department~~ **division** to address or enforce a violation of permit conditions or applicable law.

SECTION 2488. The introductory language of Arkansas Code § 8–4–204, concerning permits and revocation by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–204 >>

8–4–204. Permits — Revocation.

The ~~Arkansas Department~~ **Division** of Environmental Quality or its successor is given and charged with the power and duty to revoke, modify, or suspend, in whole or in part, for cause any permit issued under this chapter, including without limitation:

SECTION 2489. Arkansas Code § 8–4–205(a), concerning permits, hearings upon denial, revocation, or modification of permit by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–205 >>

(a) Any person that is denied a permit by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or that has a permit revoked or modified or a request for permit transfer or modification denied shall be afforded an opportunity for a hearing by the Arkansas Pollution Control and Ecology Commission in connection therewith, upon written application made within thirty (30) days after service of notice of the denial, revocation, or modification.

SECTION 2490. Arkansas Code § 8–4–205(b)(1), concerning permits, hearings upon denial, revocation, or modification of permit by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–205 >>

(b)(1) Only those interested persons, other than the applicant, that have submitted comments on the record regarding a proposed permit action during the public comment period shall have standing to request a hearing by the commission in connection therewith, upon written application made within thirty (30) days after the date of the ~~Arkansas Department~~ **Division** of Environmental Quality's final decision regarding the permit action.

SECTION 2491. Arkansas Code § 8–4–206 is amended to read as follows:

<< AR ST § 8-4-206 >>

8-4-206. State water pollution control agency — General authority.

(a) In addition to any other powers which it may have under this chapter or any other legislative act, the ~~Arkansas Department~~ **Division** of Environmental Quality is authorized and empowered to act as the “state water pollution control agency” for the State of Arkansas for the purposes of the Federal Water Pollution Control Act Amendments of 1972.

(b) As the state water pollution control agency, the ~~department~~ **division** may, among other things, approve projects for the construction of disposal systems for the purposes of loans and grants from the United States Environmental Protection Agency or any other federal agency and may take any other action necessary or appropriate to secure for the state the benefits of the Federal Water Pollution Control Act, as amended.

SECTION 2492. The introductory language of Arkansas Code § 8-4-207, concerning the powers and duties of the state water pollution control agency, is amended to read as follows:

<< AR ST § 8-4-207 >>

Without limiting the generality of the provisions of this chapter or of the powers which the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality and the Arkansas Pollution Control and Ecology Commission may have under this or any other legislative act:

SECTION 2493. Arkansas Code § 8-4-207(6)(A)(ii), concerning the powers and duties of the state water pollution control agency, is amended to read as follows:

<< AR ST § 8-4-207 >>

(ii) However, information submitted to the ~~Arkansas Department~~ **Division** of Environmental Quality may be claimed as confidential if its disclosure would divulge trade secrets.

SECTION 2494. Arkansas Code § 8-4-207(6)(B), concerning the powers and duties of the state water pollution control agency, is amended to read as follows:

<< AR ST § 8-4-207 >>

(B) The ~~department~~ **division** shall deny any claim for confidentiality for the name and address of any permit applicant or permittee or for any National Pollutant Discharge Elimination System permit applications, National Pollutant Discharge Elimination System permits, and effluent data.

SECTION 2495. Arkansas Code § 8-4-207(6)(D), concerning the powers and duties of the state water pollution control agency, is amended to read as follows:

<< AR ST § 8-4-207 >>

(D) Any person adversely affected by a determination by the ~~department~~ **division** on a claim of confidentiality may appeal the determination as provided in §§ 8-4-222 and 8-4-223.

SECTION 2496. Arkansas Code § 8–4–208 is amended to read as follows:

<< AR ST § 8–4–208 >>

8–4–208. State water pollution control agency — Administration of permit program generally.

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality is authorized, subject to the approval of the Governor, to administer on behalf of the state its own permit program for discharges into navigable waters within its jurisdiction in lieu of that of the United States Environmental Protection Agency. The ~~department~~ **division** is also authorized to submit to the Administrator of the United States Environmental Protection Agency for approval a full and complete description of the program which the ~~department~~ **division** proposes to establish and administer under state law, as provided by § 402(b) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1342(b). To that end, the ~~department~~ **division** and the Arkansas Pollution Control and Ecology Commission are vested with all necessary authority and power to meet the requirements of § 402(b) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1342(b), and the guidelines promulgated by the United States Environmental Protection Agency pursuant to § 304(h)(2) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1314(h), to engage in an approved continuing planning process under § 303(e) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1313(e), and to perform any and all acts necessary to carry out the purposes and requirements of the Federal Water Pollution Control Act Amendments of 1972 relating to this state's participation in the National Pollutant Discharge Elimination System established under the Federal Water Pollution Control Act Amendments of 1972, subject to all restrictions contained in the Federal Water Pollution Control Act Amendments of 1972 and guidelines.

(b) The ~~department~~ **division** shall further have the authority to accept a delegation of authority from the Administrator of the United States Environmental Protection Agency under the Federal Water Pollution Control Act Amendments of 1972 and to exercise and enforce the authority delegated.

(c) Any public hearing that may be held by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality preliminary to acting on a permit application as required by the Federal Water Pollution Control Act Amendments of 1972 and guidelines, unless otherwise designated in the notice of hearing, shall be for informational purposes only and shall not be deemed a hearing before the commission within the meaning of § 8–4–205. No appeal may be taken therefrom.

SECTION 2497. Arkansas Code § 8–4–209 is amended to read as follows:

<< AR ST § 8–4–209 >>

8–4–209. State water pollution control agency — Participation of certain persons prohibited in approval of permit applications.

Any provision of state law to the contrary notwithstanding, no member of the ~~Arkansas Department~~ **Division** of Environmental Quality or the Arkansas Pollution Control and Ecology Commission or other state agency who receives or has during the previous two (2) years received a significant portion of his or her income directly or indirectly from permit holders or applicants for a permit shall participate in the approval of the National Pollutant Discharge Elimination System permit applications or portions thereof.

SECTION 2498. Arkansas Code § 8–4–210(e), concerning investigations and hearings by the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–4–210 >>

(e) In accordance with the powers set forth in subsections (a)–(d) of this section, the commission is authorized to conduct adjudicatory hearings providing an aggrieved person with standing a forum for contesting any decision of the ~~Arkansas Department~~ **Division** of Environmental Quality. For the purposes of such hearings, the commission's jurisdiction shall be construed as including all regulatory programs vested with the ~~department~~ **division**.

SECTION 2499. Arkansas Code § 8–4–211(a), concerning delcaratory orders by the Arkansas Pollution Control and Ecology Commission is amended to read as follows:

<< AR ST § 8–4–211 >>

(a) Any permittee or person subject to regulation may petition the Arkansas Pollution Control and Ecology Commission for a declaratory order as to the application of any rule, statute, permit, or order enforced by the ~~Arkansas Department~~ **Division** of Environmental Quality or the commission.

SECTION 2500. Arkansas Code § 8–4–212(a), concerning orders and adjudicatory hearings by the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–4–212 >>

(a) No final order resolving a contested decision of the ~~Arkansas Department~~ **Division** of Environmental Quality shall be issued until the Arkansas Pollution Control and Ecology Commission has provided aggrieved persons that have standing the opportunity for an adjudicatory hearing upon the matter.

SECTION 2501. Arkansas Code § 8–4–215 is amended to read as follows:

<< AR ST § 8–4–215 >>

8–4–215. Intergovernmental cooperation.

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality or its successor and the Arkansas Pollution Control and Ecology Commission, so far as it is not inconsistent with its duties under the laws of this state, may assist and cooperate with any agency of another state or the United States in any matter relating to water pollution control.

(b)(1) The commission or the ~~department~~ **division** may receive and accept money, property, or services from any person or from any agency described in subsection (a) of this section or from any other source for any water pollution control purpose within the scope of its functions under this chapter.

(2) All moneys so received shall be used for the operation and activities of the commission or ~~department~~ **division** and for no other purposes.

(c)(1) The ~~department~~ **division** or its successor may enter into agreements with the responsible authorities of the United States or other states, subject to approval by the Governor, relative to policies, methods, means, and procedures to be employed to control pollution of any interstate waters and may carry out these agreements by appropriate general and special orders.

(2)(A) This power shall not be deemed to extend to the modification of any agreement with any other state concluded by direct legislative act.

(B) However, unless otherwise provided, the ~~department~~ **division** shall be the agency for the administration and enforcement of any such legislative agreement.

SECTION 2502. Arkansas Code § 8-4-216 is amended to read as follows

<< AR ST § 8-4-216 >>

8-4-216. Information and inspections.

(a) The owner or operator of or any contributor of sewage, industrial wastes, or other wastes to any disposal system or an industrial user of a publicly owned treatment system, when requested by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, shall furnish to the ~~Arkansas Department~~ **Division** of Environmental Quality any information that is relevant to the subject of this chapter. The owner or operator shall establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, including, when appropriate, biological monitoring methods, sample such effluents, and provide such other information as the director may reasonably require.

(b) The ~~department~~ **division** or any authorized employee or agent of the ~~department~~ **division** may examine and copy any book, papers, records, or memoranda pertaining to the operation of a disposal system.

(c) Whenever it shall be necessary for the purpose of this chapter, the ~~department~~ **division** or any authorized member, employee, or agent of the ~~department~~ **division** may enter upon any public or private property for the purpose of obtaining information or conducting surveys or investigations.

SECTION 2503. Arkansas Code § 8-4-217(a)(3), concerning unlawful actions under the laws of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-4-217 >>

(3) Violate any provisions of this chapter or of any rule, regulation, or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the ~~Arkansas Department~~ **Division** of Environmental Quality;

SECTION 2504. The introductory language of Arkansas Code § 8-4-217(a)(6)(A)(iii), concerning unlawful actions under the laws of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-4-217 >>

(iii) A substance the ~~department~~ **division** excludes from the phosphorus limitations of this section based on a finding that compliance with this section would:

SECTION 2505. The introductory language of Arkansas Code § 8-4-217(b)(1), concerning unlawful actions under the laws of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-4-217 >>

(b)(1) It shall be unlawful for any person to engage in any of the following acts without having first obtained a written permit from the ~~department~~ **division**:

SECTION 2506. Arkansas Code § 8–4–217(b)(2), concerning unlawful actions under the laws of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–217 >>

(2) The ~~department~~ **division** may require the submission of such plans, specifications, and other information as it deems relevant in connection with the issuance of disposal permits.

SECTION 2507. Arkansas Code § 8–4–218(a), concerning the notice of violations, orders, rules, and hearings by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–218 >>

(a) Whenever the ~~Arkansas Department~~ **Division** of Environmental Quality or its successor determines that there are reasonable grounds to believe that there has been a violation of any of the provisions of this chapter or any order, rule, or regulation of the Arkansas Pollution Control and Ecology Commission, it may give written notice to the alleged violator specifying the causes of complaint.

SECTION 2508. Arkansas Code § 8–4–220(a), concerning an order of the Arkansas Department of Environmental Quality without a hearing in an emergency, is amended to read as follows:

<< AR ST § 8–4–220 >>

(a) When the ~~Arkansas Department~~ **Division** of Environmental Quality or its successor finds that an emergency exists requiring immediate action to protect the public health or welfare it may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as it deems necessary to meet the emergency.

SECTION 2509. Arkansas Code § 8–4–230(a), concerning temporary variances and interim authority granted by the Director of the Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–230 >>

(a)(1) Unless otherwise expressly prohibited by federal law, the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may, for compelling reasons and good cause shown, grant:

(A) A temporary variance from the requirements of a permit issued by the ~~Arkansas Department~~ **Division** of Environmental Quality; or

(B) Interim authority to construct or operate during the application review and permit issuance process.

(2) Such temporary variances or interim authority shall not exceed a period of ninety (90) days, except when a longer period is justified by circumstances beyond the applicant's control. The ~~department~~ **division** may grant a request for an extension of a temporary variance or interim authority at any time prior to the expiration date.

(3) The ~~department~~ **division** may require an initial processing fee of two hundred dollars (\$200) for a request for a temporary variance or an interim authority request. This fee shall not be required for requests for an extension of any temporary variance or interim authority.

SECTION 2510. Arkansas Code § 8–4–230(e)(1), concerning temporary variances and interim authority granted by the Director of the Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–230 >>

(e)(1) The director's decision to grant or deny a temporary variance or interim authority to construct or operate shall be issued within ten (10) days of receipt of the request for the temporary variance or interim authority and shall be publicly noticed in a newspaper of general circulation in the state within five (5) business days of the director's decision. The applicant shall be responsible for the expense of the publication of a decision to grant a temporary variance or interim authority. The department **division** shall be responsible for the expense of the publication of a decision to deny a temporary variance or interim authority.

SECTION 2511. Arkansas Code § 8–4–232(b)(2)(E), concerning nutrient water quality trading programs, is amended to read as follows:

<< AR ST § 8–4–232 >>

(E)(i) The establishment of a schedule of user fees to be collected by the ~~Arkansas Department~~ **Division** of Environmental Quality from persons or entities utilizing nutrient water quality trades or offsets to comply with permit limits.

(ii) The user fees shall be based on a record calculating the reasonable costs to the department **division** of implementing and enforcing each nutrient water quality trading, credit, or offset program.

SECTION 2512. The introductory language of Arkansas Code § 8–4–232(c), concerning nutrient water quality trading programs, is amended to read as follows:

<< AR ST § 8–4–232 >>

(c) Under regulations adopted by the commission under subsection (b) of this section, the department **division** may:

SECTION 2513. Arkansas Code § 8–4–233(f), concerning the creation, members, and duties of the Nutrient Water Quality Trading Advisory Panel, is amended to read as follows:

<< AR ST § 8–4–233 >>

(f) The ~~Arkansas Department~~ **Division** of Environmental Quality shall provide meeting space and administrative services for the panel.

SECTION 2514. Arkansas Code § 8–4–233(g)(1), concerning the creation, members, and duties of the Nutrient Water Quality Trading Advisory Panel, is amended to read as follows:

<< AR ST § 8–4–233 >>

(1) Advise the department **division** and the Arkansas Natural Resources Commission regarding the desirability, design, and operation of nutrient water quality trading programs; and

SECTION 2515. The introductory language of Arkansas Code § 8–4–234(a)(1), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–234 >>

(a)(1) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may authorize short-term activities that have potential to affect compliance with Arkansas water quality standards if:

SECTION 2516. Arkansas Code § 8–4–234(b)(1), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–234 >>

(b)(1) The ~~Arkansas Department~~ **Division** of Environmental Quality may collect a processing fee for a short-term activity authorization.

SECTION 2517. Arkansas Code § 8–4–234(b)(4)(A), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–234 >>

(4)(A) The ~~department~~ **division** shall enter into an agreement with a state agency, board, or commission or municipality, city, or county that creates an alternative payment structure in lieu of fees authorized under subdivision (b)(2) of this section.

SECTION 2518. Arkansas Code § 8–4–234(b)(4)(B)(ii), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–234 >>

(ii) A process under which the ~~department~~ **division** provides notice to the state agency, board, or commission or municipality, city, or county of planned actions under this section that affect the state agency, board, or commission or municipality, city, or county.

SECTION 2519. Arkansas Code § 8–4–234(b)(5), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–234 >>

(5) The ~~department~~ **division** shall waive twenty-five percent (25%) of a fee assessed under this section to a state agency, board, or commission or municipality, city, or county in a fiscal year.

SECTION 2520. The introductory language of Arkansas Code § 8–4–234(c)(2), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-4-234 >>

(2) A state agency, board, or commission or municipality, city, or county that submits a request for a waiver of the short-term activity authorization fee under subdivision (c)(1) of this section shall provide the ~~department~~ **division**:

SECTION 2521. Arkansas Code § 8-4-303(8) and (9), concerning the definitions of “department” and “director” under the laws regarding air pollution, are repealed.

<< AR ST § 8-4-303 >>

~~(8) “Department” means the Arkansas Department of Environmental Quality or its successor;~~

~~(9) “Director” means the Director of the Arkansas Department of Environmental Quality or its successor;~~

SECTION 2522. Arkansas Code § 8-4-303(14), concerning the definition of “state implementation plan” under the laws regarding air pollution, is amended to read as follows:

<< AR ST § 8-4-303 >>

(14) “State implementation plan” means a plan that specifies measures to be used in the implementation of the state's duties under the Clean Air Act, 42 U.S.C. § 7401 et seq., and that is developed by the ~~department~~ **division** and submitted to the United States Environmental Protection Agency for review and approval.

SECTION 2523. Arkansas Code § 8-4-307 is amended to read as follows:

<< AR ST § 8-4-307 >>

8-4-307. Private rights unchanged.

(a) Persons other than the state or the ~~Arkansas Department~~ **Division** of Environmental Quality shall not acquire actionable right by virtue of this subchapter. The basis for proceedings that result from violation of any standard, rule, or regulation promulgated by the Arkansas Pollution Control and Ecology Commission shall inure solely to and shall be for the benefit of the people of the state generally, and it is not intended to create in any way new rights or to enlarge existing rights or to abrogate existing private rights.

(b) A determination by the ~~department~~ **division** that air pollution or air contamination exists or that any standard, rule, or regulation has been violated, whether or not a proceeding or action is brought by the state, shall not create, by reason thereof, any presumption of law or finding of fact that shall inure to or be for the benefit of any person other than the state.

SECTION 2524. Arkansas Code § 8-4-308(a)(1)(A), concerning confidential industrial secrets obtained by the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-4-308 >>

(a)(1)(A) Any information that constitutes a trade secret under § 4-75-601 et seq. that is obtained by the **employees of the Department of Energy and Environment**, ~~Arkansas Department~~ **the Division** of Environmental Quality, or the

Arkansas Pollution Control and Ecology Commission ~~or its employees~~ in the administration of this chapter shall be kept confidential, except for emission data that is submitted to the state, local agency, or the United States Environmental Protection Agency, which is otherwise obtained by any of those agencies pursuant to the Clean Air Act.

SECTION 2525. Arkansas Code § 8-4-309 is amended to read as follows:

<< AR ST § 8-4-309 >>

8-4-309. Construction limited — Exception.

(a) Nothing contained in this subchapter shall be construed as amending or repealing § 20-21-201 et seq. concerning the control of radiation or as granting to the ~~Arkansas Department~~ **Division** of Environmental Quality or the Arkansas Pollution Control and Ecology Commission any jurisdiction or authority with respect to air conditions existing solely within the property boundaries of any plant, works, or shop or with respect to employer-employee relationships as to health and safety hazards.

(b) Notwithstanding the preceding limitation, the ~~department~~ **division** and the commission shall have jurisdiction and authority over air conditions associated with the removal, encapsulation, enclosure, transportation, or disposal of asbestos-containing material regardless of whether such removal, encapsulation, enclosure, transportation, or disposal is conducted within the property boundaries of any plant, works, or shop.

SECTION 2526. Arkansas Code § 8-4-310(a)(2), concerning unlawful actions regarding air pollution, is amended to read as follows:

<< AR ST § 8-4-310 >>

(2) To construct, install, use, or operate any source capable of emitting air contaminants without having first obtained a permit to do so, if required by the regulations of the Arkansas Pollution Control and Ecology Commission, or to do so contrary to the provisions of any permit issued by the ~~Arkansas Department~~ **Division** of Environmental Quality or after any such permit has been suspended or revoked; or

SECTION 2527. The introductory language of Arkansas Code § 8-4-311(a), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-4-311 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality or its successor shall have the power to:

SECTION 2528. Arkansas Code § 8-4-311(a)(9)(B), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-4-311 >>

(B) The ~~department~~ **division** is designated as the official state air pollution control agency for such purposes;

SECTION 2529. Arkansas Code § 8-4-311(a)(12), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-4-311 >>

(12) Exercise all of the powers in the control of air pollution granted to the ~~department~~ **division** for the control of water pollution under §§ 8-4-101 — 8-4-106 and 8-4-201 — 8-4-229; and

SECTION 2530. Arkansas Code § 8-4-311(b)(1)(A), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-4-311 >>

(1)(A) Promulgate rules and regulations for implementing the substantive statutes charged to the ~~department~~ **division** for administration.

SECTION 2531. Arkansas Code § 8-4-311(b)(3) and (4), concerning the powers and duties of the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 8-4-311 >>

(3) Promulgate rules and regulations governing administrative procedures for challenging or contesting ~~department~~ **division** actions;

(4) In the case of permitting or grants decisions, provide the right to appeal a permitting or grants decision rendered by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or his or her delegatee;

SECTION 2532. Arkansas Code § 8-4-311(b)(7), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-4-311 >>

(7) Make recommendations to the director regarding overall policy and administration of the ~~department~~ **division**, provided, however, that the director shall always remain within the plenary authority of the Governor **and the Secretary of the Department of Energy and Environment**;

SECTION 2533. Arkansas Code § 8-4-311(b)(10)(A), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-4-311 >>

(10)(A) Adopt, after notice and public hearing, reasonable and nondiscriminatory rules and regulations, including requiring a permit or other regulatory authorization from the ~~department~~ **division**, before any equipment causing the issuance of air contaminants may be built, erected, altered, replaced, used, or operated, except in the case of repairs or maintenance of equipment for which a permit has been previously used, and revoke or modify any permit issued under this chapter or deny any permit when it is necessary, in the opinion of the ~~department~~ **division**, to prevent, control, or abate air pollution.

SECTION 2534. Arkansas Code § 8–4–311(b)(10)(D), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–311 >>

(D) Any person that is denied a permit by the ~~department~~ **division** or that has such permit revoked or modified shall be afforded an opportunity for a hearing in connection therewith upon written application made within thirty (30) days after service of notice of such denial, revocation, or modification.

SECTION 2535. Arkansas Code § 8–4–311(b)(10)(F)(i), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–311 >>

(F)(i) An applicant or permit holder that has had a complete application for a permit or for a modification of a permit pending longer than the time specified in the state regulations promulgated pursuant to Title V of the Clean Air Act Amendments of 1990, 42 U.S.C. § 7661 et seq., or any person that participated in the public participation process, and any other person that could obtain judicial review of such actions under state laws, may petition the commission for relief from ~~department~~ **division** inaction.

SECTION 2536. Arkansas Code § 8–4–311(b)(10)(F)(iii), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–4–311 >>

(iii) For the purposes of judicial review, either a commission denial or the failure of the ~~department~~ **division** to render a final decision within thirty (30) days after the commission has granted a petition shall constitute final agency action;

SECTION 2537. The introductory language of Arkansas Code § 8–4–312, concerning factors in exercise of powers by the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–4–312 >>

In exercising their powers and responsibilities under this chapter, the ~~Arkansas Department~~ **Division** of Environmental Quality and the Arkansas Pollution Control and Ecology Commission shall take into account and give consideration to the following factors:

SECTION 2538. Arkansas Code § 8–4–312(16), concerning factors in exercise of powers by the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–4–312 >>

(16) Other factors that the ~~department~~ **division** or the commission may find applicable.

SECTION 2539. Arkansas Code § 8–4–313(b)(1), concerning variance from regulations by the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–4–313 >>

(b)(1) Any person seeking a variance shall do so by filing a petition for a variance with the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 2540. Arkansas Code § 8–4–314(b)(4), concerning the creation of the Compliance Advisory Panel, is amended to read as follows:

<< AR ST § 8–4–314 >>

(4) One (1) member selected by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality who shall serve as a nonvoting member except when his or her vote is needed to break a tie vote.

SECTION 2541. Arkansas Code § 8–4–316(b)(1) and (2), concerning open burning of storm debris, are amended to read as follows:

<< AR ST § 8–4–316 >>

(B)(1) ¹⁵ Open burning shall be:

(A) Limited to no more than four (4) sites per county as designated by the county judge and pre-authorized by the ~~Arkansas Department~~ **Division** of Environmental Quality; and

(B) Reported in writing to the ~~department~~ **division** at least three (3) days before the commencement of any open burning, unless the reporting is waived by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality.

(2)(A) For an initial or subsequent request for open burning, the ~~department~~ **division** shall consider a maximum of four (4) sites pre-authorized for open burning if the ~~department~~ **division** receives a signed letter from the county judge certifying that the open burning sites pre-authorized under subdivision (b)(1) of this section have not been materially altered since the initial request.

(B) If the director determines that the scope of the disaster warrants additional open burning sites, then the director may authorize additional open burning sites.

SECTION 2542. Arkansas Code § 8–4–316(f), concerning open burning of storm debris, is amended to read as follows:

<< AR ST § 8–4–316 >>

(f) The ~~department~~ **division** may recommend alternative methods of vegetative storm debris disposal, including the use of air curtain incinerators or composting to the extent allowed under federal law.

SECTION 2543. Arkansas Code § 8–4–317(a), concerning state implementation plans, is amended to read as follows:

<< AR ST § 8–4–317 >>

(a) In developing and implementing a state implementation plan, the ~~Arkansas Department~~ **Division** of Environmental Quality shall consider and take into account the factors specified in § 8–4–312 and the Clean Air Act, 42 U.S.C. § 7401 et seq., as applicable.

SECTION 2544. Arkansas Code § 8–4–317(b)(1)(A), concerning state implementation plans, is amended to read as follows:

<< AR ST § 8–4–317 >>

(b)(1)(A) Whenever the ~~department~~ **division** proposes to finalize a state implementation plan submittal for review and approval by the United States Environmental Protection Agency, it shall cause notice of its proposed action to be published in a newspaper of general circulation in the state.

SECTION 2545. Arkansas Code § 8–4–317(b)(1)(C)(ii), concerning state implementation plans, is amended to read as follows:

<< AR ST § 8–4–317 >>

(ii) For any standard or requirement that is identical to the applicable Arkansas Pollution Control and Ecology Commission regulation or federal regulation, the demonstration required under subdivision (b)(1)(C)(i) of this section may be satisfied by reference to the regulation. In all other cases, the ~~department~~ **division** shall provide its own justification with appropriate reference to the scientific and engineering literature considered or the written studies conducted by the ~~department~~ **division**.

SECTION 2546. Arkansas Code § 8–4–317(b)(2), concerning state implementation plans, is amended to read as follows:

<< AR ST § 8–4–317 >>

(2)(A) At the conclusion of the public comment period and before transmittal to the Governor for submittal to the United States Environmental Protection Agency, the ~~department~~ **division** shall provide written notice of its final decision regarding the state implementation plan submittal to all persons who submitted public comments.

(B)(i) The ~~department's~~ **division's** final decision shall include a response to each issue raised in any public comments received during the public comment period. The response shall manifest reasoned consideration of the issues raised by the public comments and shall be supported by appropriate legal, scientific, or practical reasons for accepting or rejecting the substance of the comment in the ~~department's~~ **division's** final decision.

(ii) For the purposes of this section, response to comments by the ~~department~~ **division** should serve the roles of both developing the record for possible judicial review of a state implementation plan decision and serving as a record for the public's review of the ~~department's~~ **division's** technical and legal interpretations on long-range regulatory issues.

(iii) This section does not limit the ~~department's~~ **division's** authority to raise all relevant issues of regulatory concern upon adjudicatory review by the commission of a particular state implementation plan decision.

SECTION 2547. Arkansas Code § 8–4–317(c), concerning state implementation plans, is amended to read as follows:

<< AR ST § 8–4–317 >>

(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 2548. Arkansas Code § 8–4–318(a)(1), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

<< AR ST § 8–4–318 >>

(a)(1) The ~~Arkansas Department~~ **Division** of Environmental Quality shall develop NAAQS state implementation plans.

SECTION 2549. Arkansas Code § 8–4–318(b)(2), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

<< AR ST § 8–4–318 >>

(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 2550. The introductory language of Arkansas Code § 8–4–318(b)(3), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

<< AR ST § 8–4–318 >>

(3) Unless otherwise voluntarily proposed and agreed to by the owner or operator of a stationary source, the ~~department~~ **division** shall not require or consider air dispersion modeling of an air contaminant for which a National Ambient Air Quality Standard has been established in air permitting decisions for stationary sources except:

SECTION 2551. Arkansas Code § 8–4–318(b)(3)(B), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

<< AR ST § 8–4–318 >>

(B) If necessary in the judgment of the ~~department~~ **division**, with respect to permitting of a temporary source under 42 U.S.C. § 7661c(e); or

SECTION 2552. The introductory language of Arkansas Code § 8–4–318(c), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

<< AR ST § 8–4–318 >>

(c) This section does not prohibit the ~~department~~ **division** from conducting and considering air dispersion modeling as necessary for the:

SECTION 2553. Arkansas Code § 8–5–201(2), concerning the definition of “department” under the laws governing wastewater treatment plants, is repealed.

<< AR ST § 8–5–201 >>

(2) “Department” means the ~~Arkansas Department of Environmental Quality~~ or its successor;

SECTION 2554. Arkansas Code § 8–5–201(3) and (4), concerning the definitions of “license” and “licensing committee” under the laws governing wastewater treatment plants, are amended to read as follows:

<< AR ST § 8–5–201 >>

(3) “License” means a certificate of competency issued by the ~~department~~ **Division of Environmental Quality** to operators who have met the requirements of the licensing program;

(4) “Licensing committee” means the committee of operators and technicians established in this subchapter to assist and advise the ~~department~~ **division** in the examining and licensing of operators;

SECTION 2555. Arkansas Code § 8–5–202(b) and (c), concerning penalties and injunctions under the laws governing wastewater treatment plants, are amended to read as follows:

<< AR ST § 8–5–202 >>

(b) Any violation of this subchapter shall be subject to injunction proceedings brought by the ~~Arkansas Department~~ **Division** of Environmental Quality in a court of competent jurisdiction.

(c) A violation of any provision of this subchapter or of any rule or regulation promulgated under this subchapter is grounds for an administrative revocation or suspension of the operator's license by the ~~department~~ **division**.

SECTION 2556. Arkansas Code § 8–5–203 is amended to read as follows:

<< AR ST § 8–5–203 >>

8–5–203. Unlawful actions.

It shall be unlawful for any municipality, governmental subdivision, public or private corporation, or other person to operate a public or private wastewater treatment plant unless the competency of the operator is duly licensed by the ~~Arkansas Department~~ **Division** of Environmental Quality under the provisions of this subchapter. It shall further be unlawful for any person to perform the duties of an operator of any such wastewater treatment plant without being duly licensed under this subchapter.

SECTION 2557. Arkansas Code § 8–5–204(a)(1), concerning the creation of a wastewater treatment facility licensing committee, is amended to read as follows:

<< AR ST § 8–5–204 >>

(a)(1) There is created and established a licensing committee to advise and assist the Arkansas Pollution Control and Ecology Commission and the ~~Arkansas Department~~ **Division** of Environmental Quality in the administration of the licensing program.

SECTION 2558. Arkansas Code § 8–5–204(a)(2)(D), concerning the creation of a wastewater treatment facility licensing committee, is amended to read as follows:

<< AR ST § 8–5–204 >>

(D) One (1) member shall be the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or a qualified member of his or her staff who shall act as executive secretary of the committee.

SECTION 2559. The introductory language of Arkansas Code § 8–5–205(a), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–5–205 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality or its successor shall be charged with the responsibility of administering and enforcing this subchapter, with the advice and assistance of the licensing committee, and is given and charged with the following powers and duties:

SECTION 2560. Arkansas Code § 8–5–206(b), concerning classification of wastewater treatment plants, is amended to read as follows:

<< AR ST § 8–5–206 >>

(b) The ~~Arkansas Department~~ **Division** of Environmental Quality shall license persons as to their qualifications to supervise successfully the proper operation of wastewater treatment plants within classifications based on the recommendations of the licensing committee.

SECTION 2561. Arkansas Code § 8–5–207 is amended to read as follows:

<< AR ST § 8–5–207 >>

8–5–207. Operators to be licensed.

In order to safeguard the public health and protect the waters of this state from pollution, all operators in responsible charge of public or private wastewater treatment plants shall be duly licensed and certified as competent by the ~~Arkansas Department~~ **Division** of Environmental Quality under the provisions of this subchapter and under such rules and regulations as the Arkansas Pollution Control and Ecology Commission may adopt, with the advice and assistance of the licensing committee, pursuant to the authority of this subchapter. All rules and regulations promulgated pursuant to this subchapter shall be reviewed by the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees of the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor.

SECTION 2562. Arkansas Code § 8–5–208 is amended to read as follows:

<< AR ST § 8–5–208 >>

8–5–208. License requirements.

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality shall license and certify all applicants for licenses under this subchapter who satisfy the requirements of this subchapter and the rules and regulations issued pursuant to this subchapter. Licenses shall be granted according to the classification of wastewater treatment plants established under this subchapter. Licenses shall be valid for a period of two (2) years and shall be renewable upon application without examination.

(b) All operators of wastewater treatment plants within the state shall apply to the ~~department~~ **division** for a license.

(c) In its discretion, the ~~department~~ **division** may waive the requirements or any part of the requirements for formal examination of an applicant for license if the applicant holds a valid license or certificate from another state in which the requirements for license in the appropriate classification are at least equal to the requirements set forth in this subchapter and the rules and regulations issued pursuant to this subchapter.

SECTION 2563. Arkansas Code § 8–5–701(1), concerning the definition of “chronic noncompliance” under the laws addressing chronic noncompliance, is amended to read as follows:

<< AR ST § 8–5–701 >>

(1) “Chronic noncompliance” means conditions described in this subchapter that persist at a common sewage system after reasonable efforts by the ~~Arkansas Department~~ **Division** of Environmental Quality to obtain compliance with applicable laws or regulations in one (1) of the following:

(A) Failure to obtain a permit as required by law;

(B) Four (4) or more permit violations within a six-month period as set out in the permit issued by the ~~department~~ **division**;

(C) Failure to maintain the services of a certified wastewater treatment operator, where applicable; or

(D) Demonstrable failure to operate the common sewage system so as to prevent the discharge of waterborne pollutants in unacceptable concentrations, as defined in the individual permit or the state's water quality standards, to the surface waters or groundwater of the state; and

SECTION 2564. Arkansas Code § 8-5-702(a), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

<< AR ST § 8-5-702 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality may petition a circuit court with competent jurisdiction and proper venue to remedy chronic violations by any common sewage system.

SECTION 2565. Arkansas Code § 8-5-702(c)(1), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

<< AR ST § 8-5-702 >>

(c)(1) If the circuit court finds that circumstances prevent the owner or operator of a common sewage system from operating and maintaining the system in compliance with the law, the ~~Arkansas Department~~ **Division** of Environmental Quality shall nominate two (2) possible receivers, of which the court may appoint one (1) to operate the common sewage system, subject to the continuing jurisdiction of the circuit court.

SECTION 2566. Arkansas Code § 8-5-702(d), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

<< AR ST § 8-5-702 >>

(d)(1) If the circuit court determines that the permitted or registered entity cannot equitably satisfy the provisions of this subchapter or that no feasible alternatives exist, the circuit court shall so certify that determination to the ~~Arkansas Department~~ **Division** of Environmental Quality, which shall terminate the entity's permit, and the circuit court shall request a review by the ~~Director~~ **Secretary** of the Department of Health of the public health impact of an order compelling the entity supplying potable water to the common sewage system to cut off the flow of potable water.

(2)(A) If the ~~Director of the Department of Health~~ **secretary** determines that a greater health hazard exists from the malfunctioning common sewage system than from the discontinuance of potable water service, then the ~~Director of the Department of Health~~ **secretary** shall so certify this determination to the circuit court.

(B) The circuit court shall then issue an order compelling the receiver to notify all users of such common sewage system, including landowners and tenants, of the ~~Director of the Department of Health's~~ **secretary's** determination.

(C) Upon evidence of reasonable notice, the circuit court shall then issue the order to cut off the flow of potable water.

SECTION 2567. The introductory language of Arkansas Code § 8-5-702(e), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

<< AR ST § 8-5-702 >>

(e) The ~~Arkansas Department~~ **Division** of Environmental Quality is authorized to institute a civil action in any court of competent jurisdiction to accomplish any or all of the following:

SECTION 2568. Arkansas Code § 8-5-702(e)(3), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

<< AR ST § 8-5-702 >>

(3) Recover all costs, expenses, and damages to the ~~Arkansas Department~~ **Division** of Environmental Quality and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including, but not limited to, natural resource damages;

SECTION 2569. Arkansas Code § 8-5-702(f), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

<< AR ST § 8-5-702 >>

(f)(1) In addition to the remedies provided in subsections (a)-(e) of this section, the ~~Arkansas Department~~ **Division** of Environmental Quality shall have the authority to prohibit new or additional sewer line connections onto a common sewage system meeting the criteria established by § 8-5-701.

(2) Once the ~~Arkansas Department~~ **Division** of Environmental Quality is satisfied that the common sewage system is in compliance with state and federal law, the ~~Arkansas Department~~ **Division** of Environmental Quality may authorize new or additional sewer line connections onto the common sewage system.

SECTION 2570. Arkansas Code § 8-5-703 is amended to read as follows:

<< AR ST § 8-5-703 >>

8-5-703. Financial assurance requirements for subsequently permitted common sewage systems.

(a)(1)(A) The ~~Arkansas Department~~ **Division** of Environmental Quality may require a permitted common sewage system that is in chronic noncompliance to demonstrate to the ~~department~~ **division** its financial ability to cover the estimated costs of operating and maintaining the common sewage system for a minimum period of five (5) years.

(B) The ~~department~~ **division** may require the permitted common sewage system that is in chronic noncompliance to submit a cost estimate for a third party to operate and maintain the common sewage system each year for a period of five (5) years.

(2) The ~~department~~ **division** shall not modify or renew a National Pollutant Discharge Elimination System permit or state permit for a common sewage system if the common sewage system facility is in chronic noncompliance and the common sewage system facility proposes to use new technology that in the discretion of the ~~department~~ **division** cannot be verified to meet permit requirements.

(b) The applicant's financial ability to operate and maintain the common sewage system for a period of five (5) years shall be demonstrated to the ~~department~~ **division** by:

- (1) Obtaining insurance that specifically covers operation and maintenance costs;
- (2) Obtaining a letter of credit;

- (3) Obtaining a surety bond;
- (4) Obtaining a trust fund or an escrow account; or
- (5) Using a combination of insurance, letter of credit, surety bond, trust fund, or escrow account.
- (c) The ~~department~~ **division** may require an amount of financial assurance that exceeds the cost estimate submitted by the applicant.
- (d) A financial instrument required by this section shall be posted to the benefit of the ~~department~~ **division** and shall remain in effect for the life of the permit.
- (e) It is explicitly understood that the ~~department~~ **division** shall not directly operate and shall not be responsible for the operation of any sewage system.
- (f) This section does not restrict local and county government entities from enacting more stringent ordinances regulating nonmunicipal domestic treatment sewage systems in Arkansas.

SECTION 2571. Arkansas Code § 8–5–802 is amended to read as follows:

<< AR ST § 8–5–802 >>

8–5–802. Purpose.

It is the purpose of this subchapter to authorize the ~~Arkansas Department~~ **Division** of Environmental Quality to establish and administer a revolving loan fund to encourage the investment in pollution control and prevention technologies in Arkansas. The fund will promote sustainable economic development in Arkansas by establishing a publicly capitalized fund to make loans to small businesses for projects to meet regulatory mandates in pollution control, to adopt pollution prevention technologies, or to implement waste reduction practices.

SECTION 2572. Arkansas Code § 8–5–803(3) and (4), concerning the definitions of “department” and “director” under the laws establishing the Small Business Revolving Loan Fund for Pollution Control and Prevention Technologies Act, are repealed.

<< AR ST § 8–5–803 >>

(3) ~~“Department” means the Arkansas Department of Environmental Quality;~~

(4) ~~“Director” means the executive head and active administrator of the Arkansas Department of Environmental Quality;~~

SECTION 2573. Arkansas Code § 8–5–804 is amended to read as follows:

<< AR ST § 8–5–804 >>

8–5–804. Eligible activities.

(a) Moneys deposited into the Small Business Revolving Loan Fund within the ~~Arkansas Department~~ **Division** of Environmental Quality may be:

- (1) Loaned to eligible participants to pay the direct costs of projects which are designed to correct or avoid violations of federal or state environmental regulations and have received a certificate of need from the ~~department~~ **division**; or
- (2) Expended to pay costs incurred by the ~~department~~ **division** to provide management of lending activities.

(b)(1) It is the purpose of this subchapter to authorize the ~~department~~ **division** to establish and administer a revolving loan fund to encourage the investment in pollution control, pollution prevention, and waste reduction practices in Arkansas.

- (2) Such a fund will promote sustainable economic development in Arkansas by establishing a publicly capitalized revolving loan fund to make loans to small businesses for projects to meet regulatory mandates in pollution control or to adopt pollution prevention technologies.
- (3) Operating expenses associated with proofing a process change or equipment modification would be an eligible loan activity.

SECTION 2574. Arkansas Code § 8-5-805(a)(1), concerning eligible applications, is amended to read as follows:

<< AR ST § 8-5-805 >>

- (1) Employ one hundred (100) or fewer individuals, including both full-time and part-time employees, through direct hiring or contract, including affiliates and subsidiaries, at the time an application for a loan is received by the ~~Arkansas Department~~ **Division** of Environmental Quality;

SECTION 2575. Arkansas Code § 8-5-805(a)(3), concerning eligible applications, is amended to read as follows:

<< AR ST § 8-5-805 >>

- (3) Submit an application supplied by the ~~department~~ **division** including any supporting documents, instruments, or other documents requested by the ~~department~~ **division** for the purposes of recommending approval or disapproval of a loan described in this section.

SECTION 2576. Arkansas Code § 8-5-805(b)(1), concerning eligible applications, is amended to read as follows:

<< AR ST § 8-5-805 >>

(b)(1) Until all delinquent fees stated in this subsection or otherwise owed to the ~~department~~ **division** are paid in full and no balance is due, the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality shall not approve any loan application.

SECTION 2577. Arkansas Code § 8-5-806(c)(1), concerning terms of the revolving loan, is amended to read as follows:

<< AR ST § 8-5-806 >>

- (1) Established by the ~~Arkansas Department~~ **Division** of Environmental Quality at or below market rate; and

SECTION 2578. The introductory language of Arkansas Code § 8-5-806(e)(1), concerning terms of the revolving loan, is amended to read as follows:

<< AR ST § 8-5-806 >>

(e)(1) The ~~department~~ **division** may:

SECTION 2579. Arkansas Code § 8-5-806(f), concerning terms of the revolving loan, is amended to read as follows:

<< AR ST § 8-5-806 >>

(f) The ~~department~~ **division** may bring any lawful action to recover any loan that is in default.

SECTION 2580. The introductory language of Arkansas Code § 8-5-807(a), concerning the Small Business Revolving Loan Fund, is amended to read as follows:

<< AR ST § 8-5-807 >>

(a) There is created within the ~~Arkansas Department~~ **Division** of Environmental Quality a revolving loan fund:

SECTION 2581. Arkansas Code § 8-5-807(a)(3), concerning the Small Business Revolving Loan Fund, is amended to read as follows:

<< AR ST § 8-5-807 >>

(3) To be used as a revolving fund by the ~~department~~ **division** for making loans to eligible participants to pay the direct costs of projects that are designed to correct or avoid violations of federal or state environmental regulations and have received a certificate of need from the ~~department~~ **division** or to pay costs incurred by the ~~department~~ **division** to provide management of lending activities.

SECTION 2582. Arkansas Code § 8-5-807(b)(2)(B), concerning the Small Business Revolving Loan Fund, is amended to read as follows:

<< AR ST § 8-5-807 >>

(B) All moneys received by the ~~department~~ **division** upon repayment of loans made from the furnishing of funds for loans under the program created by this subchapter;

SECTION 2583. Arkansas Code § 8-5-807(c), concerning the Small Business Revolving Loan Fund, is amended to read as follows:

<< AR ST § 8-5-807 >>

(c)(1) Subject to the provisions of this subchapter, the ~~department~~ **division** is vested with full power, authority, and jurisdiction over the Small Business Revolving Loan Fund, including all moneys and property or securities belonging to the Small Business Revolving Loan Fund.

(2) The ~~department~~ **division** may invest the Small Business Revolving Loan Fund in direct general obligations of the United States, in certificates of deposit or savings accounts in an amount not to exceed the capital funds, represented by capital, surplus, and undivided profits in financial institutions located in Arkansas that are insured by an agency of the United States Government, and in repurchase agreements that are collateralized by direct general obligations of the United States or by bonds, notes, debentures, participation certificates, or other obligations issued by an agency of the United States, the principal and interest of which are guaranteed by the agency or the United States.

SECTION 2584. Arkansas Code § 8–5–808 is amended to read as follows:

<< AR ST § 8–5–808 >>

8–5–808. Administration of the program.

The ~~Arkansas Department~~ **Division** of Environmental Quality will manage the program through its Small Business Assistance Program. The program is authorized to delegate the management of the Small Business Revolving Loan Fund. The ~~department~~ **division** shall retain the power to issue certificates of need for eligible projects and shall not delegate such authority.

SECTION 2585. Arkansas Code § 8–5–902(2), concerning the definition of “department” under the laws regarding long-term environmental projects, is repealed.

<< AR ST § 8–5–902 >>

(2) “Department” means the Arkansas Department of Environmental Quality;

SECTION 2586. The introductory language of Arkansas Code § 8–5–903(a), concerning the procedures for approval of environmental projects, contents of applications, and public notice, is amended to read as follows:

<< AR ST § 8–5–903 >>

(a) A petitioner seeking approval of a change in water quality standards to accommodate a long-term improvement project shall file with the ~~Arkansas Department~~ **Division** of Environmental Quality a notice of intent, which includes as a minimum:

SECTION 2587. Arkansas Code § 8–5–903(b) and (c), concerning the procedures for approval of environmental projects, contents of applications, and public notice, are amended to read as follows:

<< AR ST § 8–5–903 >>

(b) The ~~department~~ **division** shall cause notice of the proposed project and associated water quality standard changes described in subsection (a) of this section to be published for public notice and comment in the same manner as provided for permit applications in § 8–4–203(c), and shall notify the public that the details of the proposed project are available for public review.

(c)(1) After considering comments from the public, the ~~department~~ **division** shall notify the petitioner as to whether the proposed project is approved or denied.

(2) The ~~department~~ **division** may deny approval of a project if it reasonably concludes that:

- (A) The plan is not complete;
- (B) The plan is not technically sound;
- (C) The schedule is unrealistic;
- (D) The plan will not have an overall beneficial effect for the environment; or
- (E) For other appropriate reasons.

(3) Any ~~department~~ **division** determination on the approval or denial of a project is subject to the appeal procedures applicable to permitting decisions set out in § 8-4-205.

SECTION 2588. Arkansas Code § 8-5-904(b) and (c), concerning the modification of water quality standards, are amended to read as follows:

<< AR ST § 8-5-904 >>

(b)(1) Once the commission approves a water quality standard modification, the ~~Arkansas Department~~ **Division** of Environmental Quality shall ensure that conditions and limitations designed to achieve compliance with the plan are established in applicable discharge permits, consent administrative orders, or such other enforcement measures deemed appropriate by the ~~department~~ **division**.

(2) The ~~department~~ **division** may allow modifications by the petitioner to the remediation plan and schedule as is deemed appropriate, provided that any such modifications to the original remedial action plan shall not render the project significantly less protective of the applicable use subcategory.

(3) Should the ~~department~~ **division** find that the petitioner is not acting in good faith to complete the project in accordance with the approved plan, applicable and appropriate enforcement authority may be exercised subject to appeal to the commission.

(c) The ~~department~~ **division** or the petitioner shall report annually to the commission on the progress of the project.

SECTION 2589. The introductory language of Arkansas Code § 8-6-203(2)(A), concerning the definition of “hazardous waste” under the Arkansas Solid Waste Management Act, is amended to read as follows:

<< AR ST § 8-6-203 >>

(2)(A) “Hazardous waste” means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may in the judgment of the ~~Arkansas Department~~ **Division** of Environmental Quality:

SECTION 2590. Arkansas Code § 8-6-203(5)(B)(i), concerning the definition of “household hazardous waste storage or processing center” under the Arkansas Solid Waste Management Act, is amended to read as follows:

<< AR ST § 8-6-203 >>

(i) Hazardous waste treatment, storage, and disposal facilities permitted by the ~~department~~ **division** under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.;

SECTION 2591. Arkansas Code § 8–6–204(a)(1)(A), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

<< AR ST § 8–6–204 >>

(1)(A) Any person who violates any provision of this subchapter, who commits any unlawful act under this subchapter, or who violates any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission or the ~~Arkansas Department~~ **Division** of Environmental Quality shall be guilty of a misdemeanor.

SECTION 2592. Arkansas Code § 8–6–204(a)(2)(A)(i), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

<< AR ST § 8–6–204 >>

(i) Violate any provision of this subchapter, commit any unlawful act under this subchapter, or violate any rule, regulation, or order of the commission or ~~department~~ **division**, and leave the state or remove his or her person from the jurisdiction of this state;

SECTION 2593. The introductory language of Arkansas Code § 8–6–204(b), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

<< AR ST § 8–6–204 >>

(b) Civil Penalties. The ~~department~~ **division** is authorized to institute a civil action in any court of competent jurisdiction to accomplish any or all of the following:

SECTION 2594. Arkansas Code § 8–6–204(b)(3), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

<< AR ST § 8–6–204 >>

(3) Recover all costs, expenses, and damages to the ~~department~~ **division** and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including natural resource damages;

SECTION 2595. Arkansas Code § 8–6–204(c), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

<< AR ST § 8–6–204 >>

(c) Any person who violates any provision of this subchapter and regulations, rules, permits, or plans issued pursuant to this subchapter may be assessed an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation. Each day of a continuing violation may be deemed a separate violation for purposes of civil penalty assessment. No civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing in accordance with regulations adopted by the commission. All hearings and appeals arising under this subchapter shall

be conducted in accordance with the procedures prescribed by §§ 8-4-205, 8-4-212, and 8-4-218 — 8-4-229. These administrative procedures may also be used to recover all costs, expenses, and damages to the ~~department~~ **division** and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including natural resource damages.

SECTION 2596. Arkansas Code § 8-6-204(e)(1), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

<< AR ST § 8-6-204 >>

(e)(1) All moneys collected as reimbursement for expenses, costs, and damages to the ~~department~~ **division** shall be deposited into the operating fund of the ~~department~~ **division**.

SECTION 2597. Arkansas Code § 8-6-204(e)(3), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

<< AR ST § 8-6-204 >>

(3)(A) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, in his or her discretion, may authorize in-kind services or cash contributions as partial mitigation of cash penalties for use in projects or programs designed to advance environmental interests.

(B) The violator may provide in-kind services or cash contributions as directed by the ~~department~~ **division** by utilizing the violator's own expertise, by hiring and compensating subcontractors to perform the in-kind services, by arranging and providing financing for the in-kind services, or by other financial arrangements initiated by the ~~department~~ **division** in which the violator and the ~~department~~ **division** retain no monetary benefit, however remote.

(C) The in-kind services shall not duplicate or augment services already provided by the ~~department~~ **division** through appropriations of the General Assembly.

SECTION 2598. Arkansas Code § 8-6-205(a)(1)-(3), concerning illegal actions, rebuttal presumption, and acts or omissions by a third party under the Arkansas Solid Waste Management Act, are amended to read as follows:

<< AR ST § 8-6-205 >>

(1) To violate any provision of this subchapter or any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission issued pursuant to this subchapter or of a permit issued under this subchapter by the ~~Arkansas Department~~ **Division** of Environmental Quality;

(2) To construct, install, alter, modify, use, or operate any solid waste processing or disposal facility or disposal site without a permit from the ~~department~~ **division**;

(3) To dispose of solid wastes at any disposal site or facility other than a disposal site or facility for which a permit has been issued by the ~~department~~ **division**. However, no provision of this subchapter shall be construed so as to prevent an individual from disposing of solid wastes resulting from his or her own household activities on his or her own land if the disposal does not create a public or private nuisance or a hazard to health and does not violate a city ordinance or other law and does not involve the open dumping of garbage;

SECTION 2599. Arkansas Code § 8–6–205(a)(5), concerning illegal actions, rebuttal presumption, and acts or omissions by a third party under the Arkansas Solid Waste Management Act, is amended to read as follows:

<< AR ST § 8–6–205 >>

(5) To sort, collect, transport, process, or dispose of solid waste contrary to the rules, regulations, or orders of the ~~department~~ **division** or in such a manner or place as to create or be likely to create a public nuisance or a public health hazard or to cause or be likely to cause water or air pollution within the meaning of the Arkansas Water and Air Pollution Control Act, § 8–4–101 et seq.

SECTION 2600. The introductory language of Arkansas Code § 8–6–207(a), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–6–207 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality or its successor shall have the following powers and duties:

SECTION 2601. Arkansas Code § 8–6–207(a)(6) and (7), concerning the powers and duties of the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 8–6–207 >>

(6) To issue, continue in effect, revoke, modify, or deny, under such conditions as the ~~department~~ **division** may prescribe, permits for the establishment, construction, operation, or maintenance of solid waste management systems, disposal sites, and facilities;

(7) To make investigations, inspections, and to hold such hearings, after notice, as the ~~department~~ **division** may deem necessary or advisable for the discharge of duties under this subchapter and to ensure compliance with this subchapter and any orders, rules, and regulations issued pursuant thereto;

SECTION 2602. Arkansas Code § 8–6–207(a)(9), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–6–207 >>

(9) To institute proceedings in the name of the ~~department~~ **division** in any court of competent jurisdiction to compel compliance with and to restrain violation of the provisions of this subchapter or any rules, regulations, and orders issued pursuant thereto and to require the taking of such remedial measures for solid waste disposal as may be necessary or appropriate to implement or effectuate the provisions and purposes of this subchapter;

SECTION 2603. Arkansas Code § 8–6–207(a)(12), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–6–207 >>

(12) To issue, continue in effect, revoke, modify, or deny, under such conditions as the ~~department~~ **division** may prescribe, permits for the establishment, construction, operation, or maintenance of transfer stations;

SECTION 2604. Arkansas Code § 8–6–207(a)(15), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–6–207 >>

(15) Upon the petition of a solid waste board or upon the ~~department's~~ **division's** own initiative to revoke, modify, or deny a permit for a solid waste disposal facility or a permit for any other element of a solid waste management system based upon noncompliance with an approved regional solid waste management plan of a solid waste board.

SECTION 2605. Arkansas Code § 8–6–207(b)(1)(A), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–6–207 >>

(1)(A) Promulgation of rules and regulations implementing the substantive statutes charged to the ~~department~~ **division** for administration.

SECTION 2606. Arkansas Code § 8–6–207(b)(3) and (4), concerning the powers and duties of the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 8–6–207 >>

(3) Promulgation of rules and regulations governing administrative procedures for challenging or contesting ~~department~~ **division** actions;

(4) In the case of permitting or grants decisions, providing the right to appeal a permitting or grants decision rendered by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or his or her delegatee;

SECTION 2607. Arkansas Code § 8–6–207(b)(7), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–6–207 >>

(7) Make recommendations to the director regarding overall policy and administration of the ~~department~~ **division**, provided, however, that the director shall always remain within the plenary authority of the Governor **and the Secretary of the Department of Energy and Environment**;

SECTION 2608. Arkansas Code § 8–6–214 is amended to read as follows:

<< AR ST § 8–6–214 >>

8–6–214. Records and examinations.

(a) The owner or operator of any permitted facility or site shall establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, take such samples, perform such tests, and provide

such other information to the ~~Arkansas Department~~ **Division** of Environmental Quality as the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may reasonably require.

(b) The ~~department~~ **division** or any authorized employee or agent may examine and copy any books, papers, records, or memoranda pertaining to the operation of the facility or site.

(c) The ~~department~~ **division** or any authorized employee or agent may enter upon any public or private property for the purpose of obtaining information or conducting surveys or investigations necessary or appropriate for the purpose of this subchapter.

(d)(1)(A) Any records, reports, or information obtained under this subchapter and any permits, permit applications, and related documentation shall be available to the public for inspection and copying.

(B) Upon a satisfactory showing to the director that the records, reports, permits, documentation, or information, or any part thereof, if made public, would divulge methods or processes entitled to protection as trade secrets, then the director shall consider, treat, and protect such records, reports, or information as confidential.

(2)(A) As necessary to carry out the provisions of this subchapter, information afforded confidential treatment may be transmitted under a continuing restriction of confidentiality to other officers, employees, or authorized representatives of this state or of the United States if the owner or operator of the facility to which the information pertains is informed at least two (2) weeks prior to the transmittal and if the information has been acquired by the ~~department~~ **division** under the provisions of this subchapter.

(B) The provisions of this subdivision (d)(2) shall not be construed to limit the ~~department's~~ **division's** authority to release confidential information during emergency situations.

(3) Any violation of this subsection shall be unlawful and constitute a misdemeanor.

SECTION 2609. Arkansas Code § 8-6-220(a)(2)(A), concerning yard waste, is amended to read as follows:

<< AR ST § 8-6-220 >>

(2)(A) If authorized by the ~~Arkansas Department~~ **Division** of Environmental Quality through a permit modification process including a public notice and comment period, yard waste may be accepted by a permitted solid waste landfill that operates a landfill gas-to-energy system for the recovery and use of landfill gas as a renewable energy fuel source.

SECTION 2610. The introductory language of Arkansas Code § 8-6-220(a)(2)(B), concerning yard waste, is amended to read as follows:

<< AR ST § 8-6-220 >>

(B) The ~~department~~ **division** shall consider, at a minimum, the following before authorizing yard waste to be accepted by a solid waste landfill for disposal:

SECTION 2611. Arkansas Code § 8-6-220(a)(2)(B)(xiii), concerning yard waste, is amended to read as follows:

<< AR ST § 8-6-220 >>

(xiii) Other information as may be required by the ~~department~~ **division**.

SECTION 2612. Arkansas Code § 8–6–220(b)(2), concerning yard waste, is amended to read as follows:

<< AR ST § 8–6–220 >>

(2) Such choices of yard waste reduction or usage shall be submitted to the ~~department~~ **division** for approval and shall become an integral part of the district's solid waste management plan.

SECTION 2613. Arkansas Code § 8–6–223(a), concerning a required permit for household hazardous waste storage or processing centers, is amended to read as follows:

<< AR ST § 8–6–223 >>

(a) It is unlawful for a person to own or operate a household hazardous waste storage or processing center, as defined in § 8–6–203, without first obtaining from the ~~Arkansas Department~~ **Division** of Environmental Quality a transfer station permit or another permit that the ~~department~~ **division** deems appropriate and that meets the requirements of this section.

SECTION 2614. Arkansas Code § 8–6–223(b)(1), concerning a required permit for household hazardous waste storage or processing centers, is amended to read as follows:

<< AR ST § 8–6–223 >>

(b)(1) The ~~department~~ **division** shall not issue, modify, or renew a permit for a household hazardous waste storage or processing center regulated under this section without the permit applicant's first demonstrating to the ~~department's~~ **division's** satisfaction the applicant's financial ability to ensure proper removal and disposal of household hazardous waste located at the household hazardous waste storage or processing center under this section.

SECTION 2615. Arkansas Code § 8–6–223(c)(6), concerning a required permit for household hazardous waste storage or processing centers, is amended to read as follows:

<< AR ST § 8–6–223 >>

(6) Any other financial instrument approved by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 2616. Arkansas Code § 8–6–223(d)–(j), concerning a required permit for household hazardous waste storage or processing centers, are amended to read as follows:

<< AR ST § 8–6–223 >>

(d) A financial instrument required by this section shall:

(1) Be posted to the benefit of the ~~department~~ **division**;

(2) Provide that the financial instrument cannot be cancelled without sixty (60) days' prior written notice addressed to the ~~department's~~ **division's** legal division chief as evidenced by a signed, certified mail with a return receipt request; and

- (3) Be reviewed by the ~~department~~ **division** upon receipt of the cancellation notice to determine whether the ~~department~~ **division** should initiate procedures to revoke or suspend the household hazardous waste storage or processing center's permit and whether the ~~department~~ **division** should take possession of the funds guaranteed by the financial assurance mechanism.
- (e) Before the ~~department~~ **division** may release a financial assurance mechanism, the ~~department~~ **division** shall inspect the household hazardous waste storage or processing center to determine to the ~~department's~~ **division's** satisfaction that no household hazardous waste is located at the household hazardous waste storage or processing center.
- (f) The ~~department~~ **division** is not responsible for the removal or disposal of household hazardous waste regulated under this section.
- (g) Before an application for a permit is submitted to the ~~department~~ **division**, a household hazardous waste storage or processing center shall apply for a certificate of need from the regional solid waste management board that has jurisdiction over the proposed site and shall follow the procedures and rules established under § 8-6-708.
- (h) A household hazardous waste storage or processing center shall submit a permit application to the ~~department~~ **division** within ninety (90) days of the approval of the certificate of need.
- (i) If a certificate of need is not approved under subsection (g) of this section or a final determination is made by the ~~department~~ **division** denying the permit application, the household hazardous waste storage or processing center shall cease all collection, storage, or processing activity and properly dispose of or recycle all materials within ninety (90) days.
- (j) ~~By October 1, 2011, each household hazardous waste storage or processing center operating before July 27, 2011, shall:~~
- ~~(1) Submit to the department a plan to remove and dispose of all household hazardous waste located at the household hazardous waste storage or processing center in accordance with this section;~~
 - ~~(2) Submit to the department a detailed cost estimate to remove and dispose of the household hazardous waste located at the household hazardous waste storage or processing center that meets the requirements of this section and is approved by the department; and~~
 - ~~(3) Obtain financial assurance in accordance with subdivision (b)(2) of this section.~~

SECTION 2617. Arkansas Code § 8-6-405 is amended to read as follows:

<< AR ST § 8-6-405 >>

8-6-405. Injunction.

In addition to all other remedies provided by this subchapter, the ~~Arkansas Department~~ **Division** of Environmental Quality, the Attorney General, the prosecuting attorney of a county where any violation of any provision of this subchapter occurs, or any citizen, resident, or taxpayer of the county where a violation of any provision of this subchapter occurs may apply to the circuit court or the judge in vacation of the county where the alleged violation occurred for an injunction to restrain, prevent, or abate the maintenance and storage of litter, junk motor vehicles, old vehicle tires, or inoperative or discarded household appliances in violation of any provision of this subchapter.

SECTION 2618. Arkansas Code § 8–6–406(a)(1), concerning littering and commercial littering, is amended to read as follows:

<< AR ST § 8–6–406 >>

(1) The property has been designated by the ~~Arkansas Department~~ **Division** of Environmental Quality as a permitted disposal site;

SECTION 2619. Arkansas Code § 8–6–503(2) and (3), concerning the definitions of “department” and “director” under the Illegal Dump Eradication and Corrective Action Program Act, are repealed.

<< AR ST § 8–6–503 >>

(2) “Department” means the ~~Arkansas Department of Environmental Quality~~;

(3) “Director” means the ~~Director of the Arkansas Department of Environmental Quality~~;

SECTION 2620. Arkansas Code § 8–6–503(5)(D), concerning the definition of “illegal dumping of solid waste” under the Illegal Dump Eradication and Corrective Action Program Act, is amended to read as follows:

<< AR ST § 8–6–503 >>

(D) Upon any property for which a permit has not been issued by the ~~department~~ **Division of Environmental Quality**;

SECTION 2621. Arkansas Code § 8–6–504 is amended to read as follows:

<< AR ST § 8–6–504 >>

8–6–504. Illegal Dump Eradication and Corrective Action Program.

The Illegal Dump Eradication and Corrective Action Program shall be administered by the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 2622. Arkansas Code § 8–6–510 is amended to read as follows:

<< AR ST § 8–6–510 >>

8–6–510. Effectiveness of regulations and orders.

None of the provisions of this act are intended to supersede any of the reuse, recycling, or fill provisions of state law of Regulation 22 of the Solid Waste Management Division of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 2623. Arkansas Code § 8–6–602(c)(2)(D), concerning the duties of the Arkansas Department of Environmental Quality under the Solid Waste Management and Recycling Fund Act, is amended to read as follows:

<< AR ST § 8–6–602 >>

(D) Other activities as approved by the Arkansas Department **Division** of Environmental Quality.

SECTION 2624. Arkansas Code § 8–6–602(d), concerning the duties of the Arkansas Department of Environmental Quality under the Solid Waste Management and Recycling Fund Act, is amended to read as follows:

<< AR ST § 8–6–602 >>

(d) The department **division** and the Arkansas Pollution Control and Ecology Commission shall promulgate and implement policies, rules, regulations, and procedures for administering the terms of this subchapter.

SECTION 2625. Arkansas Code § 8–6–603(2), concerning the definition of “department” under the Solid Waste Management and Recycling Fund Act, is repealed.

<< AR ST § 8–6–603 >>

(2) “Department” means the Arkansas Department of Environmental Quality;

SECTION 2626. Arkansas Code § 8–6–603(9), concerning the definition of “solid waste management plan” under the Solid Waste Management and Recycling Fund Act, is amended to read as follows:

<< AR ST § 8–6–603 >>

(9) “Solid waste management plan” means a plan which is developed according to the provisions of the Arkansas Solid Waste Management Act, § 8–6–201 et seq., and guidelines of the department **Division of Environmental Quality**, and which is subject to approval by the department **division**;

SECTION 2627. Arkansas Code § 8–6–603(10)(D), concerning the definition of “department” under the Solid Waste Management and Recycling Fund Act, is amended to read as follows:

<< AR ST § 8–6–603 >>

(D) Other activities as approved by the department **division**; and

SECTION 2628. Arkansas Code § 8–6–604 is amended to read as follows:

<< AR ST § 8–6–604 >>

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 2629. Arkansas Code § 8–6–605(b), concerning the Solid Waste Management and Recycling Fund, is amended to read as follows:

<< AR ST § 8–6–605 >>

(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 2630. The introductory language of Arkansas Code § 8–6–605(d), concerning the Solid Waste Management and Recycling Fund, is amended to read as follows:

<< AR ST § 8–6–605 >>

(d) No more than twenty percent (20%) of the moneys received annually into the fund shall be used by the ~~department~~ **division** for:

SECTION 2631. Arkansas Code § 8–6–606(d)(1)(B), concerning landfill disposal fees, is amended to read as follows:

<< AR ST § 8–6–606 >>

(B) This requirement may be satisfied by utilizing an alternative weighing system approved by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 2632. Arkansas Code § 8–6–606(d)(2), concerning landfill disposal fees, is amended to read as follows:

<< AR ST § 8–6–606 >>

(2) Class 1 and Class 3C landfills shall be required to weigh all loads in excess of one (1) ton (2,000 lbs.), unless otherwise authorized in writing by the ~~Arkansas Department~~ **Division** of Environmental Quality. This provision authorizes Class 1 and Class 3C landfills to estimate weights for residential and other similar loads weighing less than one (1) ton (2,000 lbs.).

SECTION 2633. Arkansas Code § 8–6–606(d)(4)(A) and (B), concerning landfill disposal fees, are amended to read as follows:

<< AR ST § 8–6–606 >>

(A) All quarterly reports required by this subchapter to be submitted by Class 1 and Class 3C landfill permittees to the ~~Arkansas Department~~ **Division** of Environmental Quality shall accurately state the total weight of solid waste received at the landfill, and the total weight of solid waste received at the landfill shall be based upon the recorded weight scale measurements; and

(B) The recorded weight scale measurements of solid waste received at Class 1 and Class 3C landfills shall be used to calculate the solid waste disposal fees payable to the ~~Arkansas Department~~ **Division** of Environmental Quality by Class 1 and Class 3C landfill permittees.

SECTION 2634. Arkansas Code § 8–6–607(1) and (2), concerning the collection of fees by the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 8–6–607 >>

(1) Each landfill permittee and each solid waste transporter shall submit to the ~~Arkansas Department~~ **Division** of Environmental Quality on or before January 15, April 15, July 15, and October 15 of each year a quarterly report that accurately states the total weight or volume of solid waste received at the landfill or transported out of state during the quarter just completed;

(2) On or before January 15, April 15, July 15, and October 15 of each year, each landfill permittee and solid waste transporter shall pay to the ~~department~~ **division** the full amount of disposal fees due for the quarter just completed;

SECTION 2635. Arkansas Code § 8–6–607(4)(B), concerning the collection of fees by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–6–607 >>

(B) The Marketing Recyclables Program Fund shall be administered by the ~~department~~ **division** and used by the panel for the administration and performance of the panel's duties; and

SECTION 2636. Arkansas Code § 8–6–608 is amended to read as follows:

<< AR ST § 8–6–608 >>

8–6–608. Penalties.

Failure of the permittee or solid waste transporter to pay the fees assessed by the ~~Arkansas Department~~ **Division** of Environmental Quality provides grounds for administrative or civil enforcement action. Sanctions may include civil penalties as provided in the Arkansas Solid Waste Management Act, § 8–6–201 et seq., or the revocation of the solid waste disposal or solid waste transporter permit.

SECTION 2637. Arkansas Code § 8–6–615(a)(1)(A), concerning reporting requirements and distribution of funds to regional solid waste management programs, is amended to read as follows:

<< AR ST § 8–6–615 >>

(a)(1)(A) Funds collected under this subchapter and deposited into the State Treasury to the credit of the Solid Waste Management and Recycling Fund, less up to twenty percent (20%) for administrative support for the ~~Arkansas Department~~ **Division** of Environmental Quality, shall be allocated annually to each of the approved regional solid waste management districts utilizing a combination of the two (2) methods stated in subsections (b) and (c) of this section.

SECTION 2638. Arkansas Code § 8–6–615(b)(1)(A) and (B), concerning reporting requirements and distribution of funds to regional solid waste management programs, are amended to read as follows:

<< AR ST § 8–6–615 >>

(b)(1)(A) The ~~department~~ **division** shall determine the amount of funds within each planning and development district organized under § 14–166–201 et seq., and recognized by the Governor, based on the same distribution as general revenue support is distributed to the planning and development districts in the current fiscal year.

(B) The ~~department~~ **division** shall adjust the distribution described in subdivision (b)(1)(A) of this section within the planning and development districts to coincide with the boundaries of the regional solid waste management districts by determining each county's share of the funds available within each planning and development district.

SECTION 2639. Arkansas Code § 8–6–615(d)(1), concerning reporting requirements and distribution of funds to regional solid waste management programs, is amended to read as follows:

<< AR ST § 8–6–615 >>

(d)(1) After August 1, 2017, and for each subsequent fiscal year, each regional solid waste management board that receives funds under this section shall provide a report by November 1 to the ~~department~~ **division** that explains how the board spent the funding received under this section in the previous fiscal year.

SECTION 2640. Arkansas Code § 8–6–615(d)(3), concerning reporting requirements and distribution of funds to regional solid waste management programs, is amended to read as follows:

<< AR ST § 8–6–615 >>

(3) The report shall be in a spreadsheet form as prescribed by the ~~department~~ **division**.

SECTION 2641. Arkansas Code § 8–6–701 is amended to read as follows:

<< AR ST § 8–6–701 >>

8–6–701. Purpose — Legislative findings — Construction.

The purpose of this subchapter is to protect the public health and the state's environmental quality by establishing regional solid waste management and planning. The current system, relying upon solid waste management by individual counties and municipalities, has fostered present conditions in which certain areas of the state are facing capacity shortages of crisis proportions, while others experience a surfeit of capacity with individual disposal facilities which cannot muster the resources for environmentally responsible operators. Given these disparate environmental and economic concerns, the General Assembly concludes that regional solid waste management and planning, under the oversight of the ~~Arkansas Department~~ **Division** of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is essential to address the imminent and future needs of the state. The terms and obligations of this subchapter shall be liberally construed so as to achieve remedial intent.

SECTION 2642. Arkansas Code § 8–6–702(3) and (4), concerning the definitions of “department” and “director” under the laws governing regional solid waste management districts and boards, are repealed.

<< AR ST § 8-6-702 >>

(3) “~~Department~~” means the Arkansas Department of Environmental Quality;

(4) “~~Director~~” means the Director of the Arkansas Department of Environmental Quality;

SECTION 2643. Arkansas Code § 8-6-702(9), concerning the definition of “materials in the recycling process” under the laws governing regional solid waste management districts and boards, is amended as follows:

<< AR ST § 8-6-702 >>

(9) “Materials in the recycling process” means ferrous and nonferrous metals diverted or removed from the solid waste stream so that they may be reused, as long as such materials are processed or handled using reasonably available processing equipment and control technology as determined by the ~~director~~ **Director of the Division of Environmental Quality**, taking cost into account, and a substantial amount of the materials are consistently utilized to manufacture a product which otherwise would have been produced using virgin material;

SECTION 2644. Arkansas Code § 8-6-704(a)(5), concerning the powers and duties of regional solid waste management boards, is amended to read as follows:

<< AR ST § 8-6-704 >>

(5) To petition the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality to issue, continue in effect, revoke, modify, or deny any permit for any element of a solid waste management system located within a district based on compliance or noncompliance with the solid waste management plan of the district;

SECTION 2645. Arkansas Code § 8-6-704(a)(13)(B), concerning the powers and duties of regional solid waste management boards, is amended to read as follows:

<< AR ST § 8-6-704 >>

(B) However, notice of all such authorizations shall be submitted to the ~~Arkansas Department~~ **Division** of Environmental Quality within thirty (30) days and shall be incorporated into the regional needs assessment in its next regular update; and

SECTION 2646. Arkansas Code § 8-6-704(a)(14)(B), concerning the powers and duties of regional solid waste management boards, is amended to read as follows:

<< AR ST § 8-6-704 >>

(B) However, notice of all such authorizations shall be submitted to the ~~department~~ **division** within thirty (30) days and shall be incorporated into the regional needs assessment in its next regular update.

SECTION 2647. Arkansas Code § 8–6–704(d)(4) and (5), concerning the powers and duties of regional solid waste management boards, are amended to read as follows:

<< AR ST § 8–6–704 >>

(4) Copies of each audit report of a district shall be filed with the ~~department~~ **division** and with Arkansas Legislative Audit. In addition, one (1) copy of the audit report shall be kept for public inspection with the books and records of the district.

(5) Failure to provide a full and complete audit report, as required by this subchapter, shall prohibit future distribution of revenue from funding programs that are administered by the ~~department~~ **division** unless otherwise authorized by the director.

SECTION 2648. Arkansas Code § 8–6–705 is amended to read as follows:

<< AR ST § 8–6–705 >>

8–6–705. Needs assessments.

(a) All needs assessments required by this subchapter are subject to review and approval for completeness by the ~~Arkansas Department~~ **Division** of Environmental Quality.

(b) Failure to provide complete assessments as required by this subchapter may provide the ~~department~~ **division** with grounds to initiate enforcement actions against the regional solid waste management boards or their component governmental entities. Pursuant to established administrative procedures, sanctions may be imposed, including, but not limited to, denial, discontinuation, or reimbursement of any grant funding administered by the ~~department~~ **division** to a regional solid waste management district or any of its component governmental entities.

(c) The ~~department~~ **division** may award grants to the districts for the development of the initial regional needs assessments, for the biennial updates, and for any other update required by the law.

SECTION 2649. Arkansas Code § 8–6–706(a), concerning solid waste landfill and transfer station permits, is amended to read as follows:

<< AR ST § 8–6–706 >>

(a)(1) Before an application for a permit is submitted to the ~~Arkansas Department~~ **Division** of Environmental Quality, an applicant for a solid waste landfill permit or a transfer station permit shall obtain a certificate of need from the regional solid waste management board that has jurisdiction over the proposed site, with the exception of permits for landfills when a private industry bears the expense of operating and maintaining the landfill solely for the disposal of waste generated by the industry or wastes of a similar kind or character under the Arkansas Solid Waste Management Act, § 8–6–201 et seq.

(2) The ~~department~~ **division** may deny any permit based upon the denial of a certificate of need by any regional solid waste management board.

SECTION 2650. Arkansas Code § 8–6–706(c), concerning solid waste landfill and transfer station permits, is amended to read as follows:

<< AR ST § 8-6-706 >>

(c) Any interested party to a certificate of need determination by a board may appeal the decision to the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality pursuant to procedures adopted by the Arkansas Pollution Control and Ecology Commission. The director may issue a permit despite the denial of a certificate of need if the director finds upon appeal that the decision of the board was not supported by substantial evidence.

SECTION 2651. Arkansas Code § 8-6-712(a)(3)(B), concerning regulation of solid waste disposal, is amended to read as follows:

<< AR ST § 8-6-712 >>

(B) Provided, however, that notice of all such authorizations shall be submitted to the ~~Arkansas Department~~ **Division** of Environmental Quality within thirty (30) days and shall be incorporated into the district needs assessment in its next regular update;

SECTION 2652. Arkansas Code § 8-6-712(c)(2), concerning regulation of solid waste disposal, is amended to read as follows:

<< AR ST § 8-6-712 >>

(2) Nothing in this section shall prohibit the collection or disposal of solid waste by a municipality with an existing permitted landfill with a twenty-five-year capacity as of January 1, 1991, when the city bears the expense of operating and maintaining the landfill and the landfill complies with United States Environmental Protection Agency and ~~department~~ **division** regulations.

SECTION 2653. Arkansas Code § 8-6-716(a)(1)(A)(ii), concerning the submission of a regional needs assessment to the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-6-716 >>

(ii) Such regional needs assessment shall be submitted for ~~Arkansas Department~~ **Division** of Environmental Quality review, and the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality shall approve or disapprove it within ninety (90) days after submission.

SECTION 2654. Arkansas Code § 8-6-716(a)(1)(B)(ii), concerning the submission of a regional needs assessment to the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-6-716 >>

(ii) The ~~department~~ **division** may, at its discretion, stagger the due dates by random selection so that approximately one fourth (1/4) of the districts will submit a regional needs assessment each year.

SECTION 2655. Arkansas Code § 8–6–716(a)(1)(C)(i), concerning the submission of a regional needs assessment to the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–6–716 >>

(C)(i) The ~~department~~ **division** will notify in writing the districts of the date on which their regional needs assessments are due.

SECTION 2656. Arkansas Code § 8–6–720(b), concerning the opportunity to recycle and recyclable materials collection centers, is amended to read as follows:

<< AR ST § 8–6–720 >>

(b) The ~~Arkansas Department~~ **Division** of Environmental Quality shall determine by regulation the adequacy of the facilities and the number and type of recyclable materials for which the services in this section must be provided.

SECTION 2657. Arkansas Code § 8–6–723(a)(2), concerning the alternative formation of original districts, is amended to read as follows:

<< AR ST § 8–6–723 >>

(2) The creation of the district shall be effective upon the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality's receipt of written notice in the form of a joint resolution by the local governments.

SECTION 2658. Arkansas Code § 8–6–723(b)(1), concerning the alternative formation of original districts, is repealed.

<< AR ST § 8–6–723 >>

~~(b)(1) In lieu of forming a district under any other provision of this subchapter, a district may be created by a resolution of the governing body of any authority created under the Joint County and Municipal Solid Waste Disposal Act, § 14–233–101 et seq., which includes a county having a population of at least sixty thousand (60,000) persons and which has made application to the Arkansas Department of Environmental Quality for a solid waste disposal permit on or before January 1, 1991.~~

SECTION 2659. Arkansas Code § 8–6–901(2) and (3), concerning the definitions of “department” and “director” under the laws governing licensing of operators of solid waste management facilities, are repealed.

<< AR ST § 8–6–901 >>

(2) “Department” means the Arkansas Department of Environmental Quality;

(3) “Director” means the Director of the Arkansas Department of Environmental Quality or the director's delegate or representative;

SECTION 2660. Arkansas Code § 8–6–901(4), concerning the definition of “illegal dumps control officer” under the laws governing licensing of operators of solid waste management facilities, is amended to read as follows:

<< AR ST § 8–6–901 >>

(4) “Illegal dumps control officer” means an individual employed by an authorized solid waste management district within this state, a county government within this state, or a pollution control inspector or other representative of the ~~department~~ **Division of Environmental Quality** who is empowered to ensure compliance with any state law prohibiting the illegal dumping of solid wastes;

SECTION 2661. Arkansas Code § 8–6–901(5), concerning the definition of “license” under the laws governing licensing of operators of solid waste management facilities, is amended to read as follows:

<< AR ST § 8–6–901 >>

(5) “License” means a certificate of competency issued by the ~~director~~ **Director of the Division of Environmental Quality** to solid waste management facility operators and illegal dumps control officers who have met the requirements of the licensing program;

SECTION 2662. Arkansas Code § 8–6–901(6), concerning the definition of “licensing committee” under the laws governing licensing of operators of solid waste management facilities, is amended to read as follows:

<< AR ST § 8–6–901 >>

(6) “Licensing committee” means the committee of solid waste management facility managers, operators, or technicians established in this subchapter to assist and advise the commission and the ~~department~~ **division** in the examining and licensing of operators of solid waste management facilities;

SECTION 2663. Arkansas Code § 8–6–903(a), concerning licenses required to operate a solid waste management facility, is amended to read as follows:

<< AR ST § 8–6–903 >>

(a) It shall be illegal for any county, municipality, governmental subdivision, public or private corporation, or other person to operate a solid waste management facility unless the competency of the operator is duly licensed by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality under the provisions of this subchapter.

SECTION 2664. Arkansas Code § 8–6–904(a)(1), concerning the creation of a licensing committee to advise and assist the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–6–904 >>

(a)(1) There is created a licensing committee to advise and assist the Arkansas Pollution Control and Ecology Commission and the ~~Arkansas Department~~ **Division** of Environmental Quality in the administration of the licensing program.

SECTION 2665. Arkansas Code § 8–6–904(a)(2)(A), concerning the creation of a licensing committee to advise and assist the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–6–904 >>

(A) Three (3) members, to be appointed by the commission, shall be solid waste management facility operators licensed by the ~~department~~ **division**;

SECTION 2666. Arkansas Code § 8–6–904(a)(2)(H), concerning the creation of a licensing committee to advise and assist the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–6–904 >>

(H) One (1) member, to be appointed by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, shall be a qualified member of his or her staff who shall serve ex officio with no vote as executive secretary of the committee.

SECTION 2667. Arkansas Code § 8–6–905(a), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–6–905 >>

(a) The Arkansas Pollution Control and Ecology Commission, with the advice and assistance of the licensing committee, is given and charged with the power and duty to adopt rules and regulations implementing and effectuating such powers and duties of the ~~Arkansas Department~~ **Division** of Environmental Quality and the committee under this subchapter as may be necessary for the administration and enforcement of this subchapter.

SECTION 2668. The introductory language of Arkansas Code § 8–6–905(b), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–6–905 >>

(b) The ~~department~~ **division** is charged with the responsibility of administering and enforcing this subchapter, with the advice and assistance of the committee, and is given and charged with the following powers and duties:

SECTION 2669. Arkansas Code § 8–6–905(b)(1)(B), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8–6–905 >>

(B) This duty may be delegated by the ~~department~~ **division** to the administrator of any approved course;

SECTION 2670. Arkansas Code § 8-6-905(c)(1) and (2), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, are amended to read as follows:

<< AR ST § 8-6-905 >>

- (1) Conduct inquiries and establish findings necessary to advise the commission and the ~~department~~ **division** on irregularities encountered in the management of the licensing program;
- (2) Conduct inquiries and establish facts necessary to advise the commission and the ~~department~~ **division** on the actions of licensees; and

SECTION 2671. Arkansas Code § 8-6-906(b), concerning the classification of a license, is amended to read as follows:

<< AR ST § 8-6-906 >>

(b) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, with the advice and assistance of the licensing committee, shall license persons according to their qualifications to successfully operate solid waste management facilities within the classifications established and effectuated by rules and regulations promulgated by the commission.

SECTION 2672. Arkansas Code § 8-6-907 is amended to read as follows:

<< AR ST § 8-6-907 >>

8-6-907. Licensing.

All operators in responsible charge of public and private solid waste management facilities shall be duly licensed and certified as competent by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality under the provisions of this subchapter and under such rules and regulations as the Arkansas Pollution Control and Ecology Commission may adopt, with the advice and assistance of the licensing committee, pursuant to the authority of this subchapter.

SECTION 2673. Arkansas Code § 8-6-908(a)(1), concerning eligibility, reciprocity, and licensing by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-6-908 >>

(a)(1) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality shall license and certify all applicants for licenses under this subchapter who satisfy the requirements of this subchapter and the rules and regulations issued pursuant thereto.

SECTION 2674. Arkansas Code § 8-6-908(b), concerning eligibility, reciprocity, and licensing by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-6-908 >>

(b) All operators of solid waste management facilities within the state shall apply to the ~~Arkansas Department~~ **Division** of Environmental Quality for a license.

SECTION 2675. Arkansas Code § 8–6–909(b), concerning fees for licenses, examinations, and certifications, is amended to read as follows:

<< AR ST § 8–6–909 >>

(b) All of the fees shall be deposited into the Arkansas ~~Department~~ **Division** of Environmental Quality Fee Trust Fund, as established in § 8–1–105.

SECTION 2676. Arkansas Code § 8–6–1001(2) and (3), concerning the definitions of “department” and “director” under the laws regarding the Landfill Post–Closure Trust Fund, are repealed.

<< AR ST § 8–6–1001 >>

(2) “Department” means the ~~Arkansas Department of Environmental Quality~~;

(3) “Director” means the ~~Director of the Arkansas Department of Environmental Quality~~;

SECTION 2677. Arkansas Code § 8–6–1001(6), concerning the definition of “post-closure corrective action” under the laws regarding the Landfill Post–Closure Trust Fund, is amended to read as follows:

<< AR ST § 8–6–1001 >>

(6) “Post-closure corrective action” means any measures deemed necessary by the ~~director~~ **Director of the Division of Environmental Quality** to prevent or abate contamination of the environment from any landfill which has been certified as properly closed by the ~~department~~ **Division of Environmental Quality**;

SECTION 2678. Arkansas Code § 8–6–1002(a)(3), concerning the creation of the Landfill Post–Closure Trust Fund, is amended to read as follows:

<< AR ST § 8–6–1002 >>

(3) Moneys received into the fund may also be used by the ~~Arkansas Department~~ **Division** of Environmental Quality for administrative purposes at a level not to exceed three hundred thousand dollars (\$300,000) annually with an annual escalator not to exceed three percent (3%).

SECTION 2679. Arkansas Code § 8–6–1002(b), concerning the creation of the Landfill Post–Closure Trust Fund, is amended to read as follows:

<< AR ST § 8–6–1002 >>

(b)(1) The fund shall be administered by the ~~department~~ **division**, which shall authorize funding and administrative expenditures from the fund according to the provisions of this subchapter.

(2)(A) The fund shall be administered by the ~~department~~ **division** and shall be used by the ~~department~~ **division** for landfill post-closure corrective action.

(B) The fund shall be used only if the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality determines that:

(i) A landfill which is no longer receiving waste, regardless of when it ceased operating, is causing groundwater contamination or is causing other contamination that is a hazard to public health or endangers the environment; and

(ii) The owner or operator of the landfill site has expended at least ten thousand dollars (\$10,000) toward corrective action, unless the owner or operator cannot be located or the director determines an emergency exists necessitating immediate corrective action.

(3) The fund shall be administered by the ~~department~~ **division** and may be used by the ~~department~~ **division** to complete all activities necessary for the closure of a permitted waste tire processing or disposal site that is owned or operated by a regional solid waste management district if the ~~department~~ **division** determines that the district lacks sufficient funds to complete closure of the permitted waste tire processing or disposal site.

SECTION 2680. Arkansas Code § 8–6–1002(e), concerning the creation of the Landfill Post–Closure Trust Fund, is amended to read as follows:

<< AR ST § 8–6–1002 >>

(e)(1) An owner or operator of a permitted landfill shall establish and at all times maintain financial assurance for the post-closure maintenance of the landfill. At a minimum, each owner or operator shall provide no less than twenty percent (20%) of estimated post-closure maintenance costs through a financial mechanism readily negotiable by the ~~department~~ **division** to cash funds, for example, a letter of credit, surety bond, irrevocable trust, insurance, or other mechanism approved by the ~~department~~ **division**, upon default by the owner and operator of post-closure obligations.

(2) If, after proper closure of a landfill, the ~~department~~ **division** reasonably determines that the owner or operator cannot be located or cannot otherwise satisfy, in whole or part, post-closure maintenance obligations, the ~~department~~ **division** is authorized to expend the necessary funds from the fund to satisfy the requirements of state and federal law and to prevent or abate releases to the environment.

(3) If the ~~department~~ **division** is required to expend funds from the fund due to the failure of an owner or operator to meet the requirements of this subsection, the ~~department~~ **division** shall pursue collection and recovery of the funds by issuing an administrative order notifying the owner or operator by certified mail at the last known address of the owner or operator of the action taken by the ~~department~~ **division** and the amount of funds expended from the fund and that the administrative order may be appealed in accordance with the ~~department's~~ **division's** regulations.

SECTION 2681. Arkansas Code § 8–6–1004(1) and (2), concerning the collection of fees regarding the Landfill Post–Closure Trust Fund, are amended to read as follows:

<< AR ST § 8–6–1004 >>

(1) Each landfill permittee and each solid waste transporter shall submit to the ~~Arkansas Department~~ **Division** of Environmental Quality on or before January 15, April 15, July 15, and October 15 of each year a quarterly report which accurately states the total weight or volume of solid waste received at the landfill or transported out of state during the previous quarter;

(2) On or before January 15, April 15, July 15, and October 15 of each year, each landfill permittee and solid waste transporter shall pay to the ~~department~~ **division** the full amount of such disposal fees due for the previous quarter; and

SECTION 2682. Arkansas Code § 8–6–1005 is amended to read as follows:

<< AR ST § 8–6–1005 >>

8–6–1005. Penalties.

Failure of the permittee or solid waste transporter to pay the fees assessed by the ~~Arkansas Department~~ **Division** of Environmental Quality shall provide grounds for administrative or civil enforcement action. Sanctions may include civil penalties as provided in the Arkansas Solid Waste Management Act, § 8–6–201 et seq., or the revocation of the solid waste disposal or solid waste transporter permit.

SECTION 2683. Arkansas Code § 8–6–1103(3), concerning the definition of “director” under the laws regarding landfill service areas, is repealed.

<< AR ST § 8–6–1103 >>

(3) “~~Director~~” means the ~~Director of the Arkansas Department of Environmental Quality~~;

SECTION 2684. Arkansas Code § 8–6–1104 is amended to read as follows:

<< AR ST § 8–6–1104 >>

8–6–1104. Transportation of solid waste outside district.

In any instance in which a landfill has a useful life of less than one and one-half (1 ½) years, the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may authorize any city utilizing that landfill to transport solid waste outside the boundaries of the regional solid waste management district. Provided, however, in no instance shall that authority be extended after a landfill with a useful life in excess of one and one-half (1 ½) years becomes available within the district for accepting the solid waste of the city.

SECTION 2685. Arkansas Code § 8–6–1105(b), concerning an exemption of expansion outside district, is amended to read as follows:

<< AR ST § 8–6–1105 >>

(b) Landfill capacity shall be determined by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 2686. Arkansas Code § 8–6–1105(c)(3), concerning an exemption of expansion outside district, is amended to read as follows:

<< AR ST § 8–6–1105 >>

(3) No new landfill shall be allowed to receive solid waste outside the boundaries of the district in which it is located unless it is a landfill where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry or of wastes of a similar kind or character and such industry has commenced, prior to March 1, 1991, the process for obtaining a permit by issuing notice to the local government having jurisdiction, as required under the rules and regulations of the Arkansas Department of Environmental Quality **or the Division of Environmental Quality**.

SECTION 2687. Arkansas Code § 8–6–1105(c)(4), concerning an exemption of expansion outside district, is amended to read as follows:

<< AR ST § 8–6–1105 >>

(4)(A) No new applications for landfill permits seeking to dispose of solid waste originating outside of a district or that propose to dispose of solid waste originating from outside such district shall be accepted or processed by the ~~Arkansas Pollution Control and Ecology Commission~~ **Division of Environmental Quality** or a regional solid waste management board, unless such applications were pending before the ~~department~~ **Arkansas Department of Environmental Quality or the Division of Environmental Quality**, on March 1, 1989.

(B) Provided, the prohibition contained in this subsection shall not apply to new applications for landfill permits if the landfill is one where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry, or of wastes of a similar kind or character, and such industry has commenced, prior to March 1, 1991, the process for obtaining a permit by issuing notice to the local government having jurisdiction, as required under the rules and regulations of the ~~department~~ **Arkansas Department of Environmental Quality or the Division of Environmental Quality**.

SECTION 2688. Arkansas Code § 8–6–1206(c)(1), concerning the adoption of disposal criteria for incinerator ash, is amended to read as follows:

<< AR ST § 8–6–1206 >>

(c)(1) The monofill requirement created under this subchapter does not apply if the owner or operator demonstrates to the ~~Arkansas Department~~ **Division** of Environmental Quality that the incinerator ash to be disposed of in the Class 1 landfill is received from incinerators that only combust yard waste or other natural vegetative debris, including vegetative storm debris, tree trimmings, and land-clearing debris.

SECTION 2689. Arkansas Code § 8–6–1301(a), concerning legislative findings and purpose regarding obtaining permits from the Arkansas Department of Environmental Quality for medical waste incineration facilities, is amended to read as follows:

<< AR ST § 8–6–1301 >>

(a) The General Assembly has found that there is an increased interest in obtaining permits from the Arkansas Department of Environmental Quality **or the Division of Environmental Quality** for the purpose of constructing and operating commercial medical waste incineration facilities. The Clean Air Act in 42 U.S.C. § 7429(a)(1)(C) has directed the United States Environmental Protection Agency to promulgate regulations concerning these commercial medical waste incineration facilities. The General Assembly has determined that it is necessary to delay the issuance of permits to these commercial medical waste incineration facilities until those regulations are promulgated in order to ensure that any permits issued will be based on the latest available information concerning technology and safety as set forth in the federal regulations.

SECTION 2690. Arkansas Code § 8–6–1302(2) and (3), concerning the definitions of “department” and “director” under the laws regarding commercial medical waste incineration facilities, are repealed.

<< AR ST § 8–6–1302 >>

(2) “Department” means the Arkansas Department of Environmental Quality;

(3) “Director” means the ~~Director of the Arkansas Department of Environmental Quality;~~

SECTION 2691. Arkansas Code § 8–6–1304(c)(2), concerning the applicability of laws to medical waste incineration facilities, is amended to read as follows:

<< AR ST § 8–6–1304 >>

(2) For the purposes of construing this subsection and the application of this subchapter, initiation of operations has not occurred until the ~~Arkansas Department~~ **Division** of Environmental Quality has approved the installation of all permitted pollution control equipment and the commercial medical waste incineration facility is receiving medical waste for incineration.

SECTION 2692. Arkansas Code § 8–6–1305 is amended to read as follows:

<< AR ST § 8–6–1305 >>

8–6–1305. Permits — Procedure generally — Definition.

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality shall not accept any applications or issue any permits for the construction or operation of any commercial medical waste incineration facilities until the federal regulations promulgated pursuant to 42 U.S.C. § 7429(a)(1)(C) become effective or the United States Environmental Protection Agency's dioxin reassessment is finalized, whichever is later.

(b) Any person applying for a permit or a permit modification to construct and operate a commercial medical waste incineration facility shall complete the following criteria at least thirty (30) days prior to submitting a permit application to the ~~department~~ **division**:

(1) Written notification by certified mail to each property owner and resident of any property adjacent to the proposed site of the intent to apply for a permit or permit modification; and

(2) Publication of a public notice in the largest newspaper published in each county where the property which is the subject matter of the proposed commercial medical waste incineration facility permit or permit modification is located, and in at least one (1) newspaper of statewide circulation, of the intent to apply for a permit or a permit modification to construct and operate a commercial medical waste incineration facility.

(c) The ~~department~~ **division** shall provide written notice by certified mail of the proposed permit or permit modification to the mayor of the city and the county judge of the county where the property which is the subject matter of the permit application is located.

(d) The ~~department~~ **division** shall conduct a public hearing in the county in which the commercial medical waste incineration facility is to be located prior to the issuance of a final permit.

(e)(1)(A) Notwithstanding the general provisions of other laws, permits for the construction or operation of commercial medical waste incineration facilities shall not be transferable upon a change in ownership or control of a commercial medical waste incineration facility.

(B) Prior to any change in ownership or control of a commercial medical waste incineration facility, the proposed new owner must apply for a new permit and abide by the requirements of § 8–1–106.

(C) The ~~department~~ **division** shall process the application as one for a new permit and apply the most current statutes, regulations, technological standards, and operational controls as conditions precedent for granting a permit or operational authority.

(2)(A) Any agreement or contract, written or oral, for a future transfer of operational control or ownership of a permitted commercial medical waste incineration facility or such an agreement or contract contingent upon the ~~department's~~ **division's** approval shall be subject to immediate disclosure to the ~~department~~ **division** pursuant to § 8-1-106.

(B) Upon such disclosure, the ~~department~~ **division** shall cause the intent to transfer ownership or control to be publicly noticed and produce the disclosure documentation required by § 8-1-106 for public inspection.

(C) After a reasonable period for public review, the ~~department~~ **division** shall issue a written determination as to whether the intended transfer of ownership or control should be approved, subject to the right of appeal provided by § 8-1-106(e).

(D) During the pendency of the ~~department's~~ **division's** and the public's review of the disclosure materials required by this section, any actions taken by the permittee or proposed transferee are at their own risk, and shall not be construed by the ~~department~~ **division** or the Arkansas Pollution Control and Ecology Commission as accruing equities in their favor.

(3) As used in this subsection:

(A) "Control" shall be presumed to reside with the owner, as defined herein, unless circumstances indicate that a person or entity other than an employee or agent of the owner is exercising ultimate decision-making authority regarding the construction or operation of a commercial medical waste incineration facility; and

(B) "Corporate ownership" shall be defined as a controlling or majority interest in a commercial medical waste incineration facility, either through outright ownership of stock or other indicia of title, or any equitable right to such title as construed from the totality of the circumstances.

(4) Any violation of this subsection shall constitute grounds for permit revocation and imposition of the civil and criminal penalties authorized by § 8-4-103.

(f)(1) If the original permit was issued more than one (1) year prior to the initiation of incineration activities at a commercial medical waste incineration facility, the ~~department~~ **division** may review the conditions of the permit to determine whether good cause exists for modifying operating parameters to assure the maximum feasible control efficiency of emissions.

(2) Any modifications proposed by the ~~department~~ **division** must be supported by appropriate references to the scientific and engineering literature or documented studies conducted by the ~~department~~ **division**.

SECTION 2693. The introductory language of Arkansas Code § 8-6-1306(a), concerning the limitations of permits to construct or operate a commercial medical waste incineration facility granted by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-6-1306 >>

(a) No permits may be issued by the ~~Arkansas Department~~ **Division** of Environmental Quality for the construction or operation of a commercial medical waste incineration facility in which any of the following factors are present:

SECTION 2694. Arkansas Code § 8–6–1307 is amended to read as follows:

<< AR ST § 8–6–1307 >>

8–6–1307. Financial assurance guarantees.

(a)(1) Prior to initiating operations at a commercial medical waste incineration facility, the owner or operator must demonstrate:

(A) Evidence of liability insurance in such amount as the ~~Arkansas Department~~ **Division** of Environmental Quality may determine to be necessary for the protection of public health and safety and protection of the environment; and

(B) Evidence of financial responsibility in such form and amount as the ~~department~~ **division** may determine to be necessary to ensure that, upon abandonment, cessation, or interruption of the operation of the commercial medical waste incineration facility, all appropriate measures can be taken to prevent present and future damage to the public health and safety and to the environment.

(2) In determining the adequacy of the evidence submitted, the ~~department~~ **division** may consider credible evidence indicating that the permittee is undercapitalized, insolvent, or otherwise financially incapable of assuring environmentally sound operations at the permitted commercial medical waste incineration facility.

(b) In determining the nature of financial assurance guarantees required by subsection (a) of this section, the ~~department~~ **division** and the permittee shall follow, to the extent applicable, the federal regulations governing financial assurance of facilities governed by Subtitle D of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6941 et seq.

SECTION 2695. Arkansas Code § 8–6–1503 is amended to read as follows:

<< AR ST § 8–6–1503 >>

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 2696. 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:

<< AR ST § 8–6–1504 >>

(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 2697. Arkansas Code § 8–6–1601(c)(1), concerning the purpose of solid waste management facilities, is amended to read as follows:

<< AR ST § 8–6–1601 >>

(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 2698. Arkansas Code § 8–6–1602(5), concerning the definition of “department” under the laws regarding solid waste management facilities, is repealed.

<< AR ST § 8–6–1602 >>

(5) ~~“Department” means the Arkansas Department of Environmental Quality;~~

SECTION 2699. Arkansas Code § 8–6–1603(d)(4)(A), concerning procedures of solid waste management facilities, is amended to read as follows:

<< AR ST § 8–6–1603 >>

(4)(A) A municipality or county that owns or operates a solid waste management facility receiving any non-RCRA, Subtitle D waste may, in lieu of a performance bond, execute a contract of obligation with the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 2700. Arkansas Code § 8–6–1604(c) and (d), concerning the Solid Waste Performance Bond Fund, are amended to read as follows:

<< AR ST § 8–6–1604 >>

(c) The fund shall be administered by the ~~Arkansas Department~~ **Division** of Environmental Quality and will be used to accomplish remedial action, including closure of lands covered by performance bonds forfeited under this subchapter.

(d) Moneys received annually into the fund shall be used by the ~~department~~ **division** for the administration of remedial actions performed as a result of this subchapter.

SECTION 2701. Arkansas Code § 8–6–1703(e), concerning restrictions on the open burning of yard waste, is amended to read as follows:

<< AR ST § 8–6–1703 >>

(e) Nothing in this subchapter shall be construed as impairing the authority of the ~~Arkansas Department~~ **Division** of Environmental Quality to abate reasonably likely exceedances of National Ambient Air Quality Standards.

SECTION 2702. Arkansas Code § 8–6–1801 is amended to read as follows:

<< AR ST § 8–6–1801 >>

8–6–1801. Management plan — Substitution.

If the ~~Arkansas Department~~ **Division** of Environmental Quality requires a person to obtain an animal waste management plan, including a permit application, prepared by a professional engineer as defined in § 17-30-101, the person may substitute a plan prepared under the supervision of a professional engineer employed by one (1) of the following agencies:

- (1) A conservation district;
- (2) The Arkansas Natural Resources Commission;
- (3) The United States Natural Resources Conservation Service; or
- (4) The University of Arkansas Cooperative Extension Service.

SECTION 2703. Arkansas Code § 8-6-1902(1), concerning the responsibility for the development of the Statewide Solid Waste Management Plan, is amended to read as follows:

<< AR ST § 8-6-1902 >>

- (1) The ~~Arkansas Department~~ **Division** of Environmental Quality has been charged by the General Assembly with the responsibility of developing the Statewide Solid Waste Management Plan which, when feasible, gives emphasis to regional planning;

SECTION 2704. Arkansas Code § 8-6-1903(3), concerning the definition of “department” under the laws regarding the Statewide Solid Waste Management Plan, is repealed.

<< AR ST § 8-6-1903 >>

- ~~(3) “Department” means the Arkansas Department of Environmental Quality.~~

SECTION 2705. The introductory language of Arkansas Code § 8-6-1904(a), concerning the development and implementation of the Statewide Solid Waste Management Plan by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-6-1904 >>

- (a) The ~~Arkansas Department~~ **Division** of Environmental Quality shall develop the Statewide Solid Waste Management Plan to establish minimum requirements for all regional solid waste management plans, including requirements for:

SECTION 2706. Arkansas Code § 8-6-1904(c)(2), concerning the development and implementation of the Statewide Solid Waste Management Plan by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-6-1904 >>

- (2) Denial, discontinuation, or reimbursement of any funding administered by the ~~department~~ **division** to the board.

SECTION 2707. Arkansas Code § 8-7-202(4), concerning the purpose of the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

<< AR ST § 8-7-202 >>

(4) Qualify the ~~Arkansas Department~~ **Division** of Environmental Quality to adopt, administer, and enforce a hazardous waste program pursuant to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.; and

SECTION 2708. Arkansas Code § 8-7-203(2) and (3), concerning the definitions of “department” and “director” under the Arkansas Hazardous Waste Management Act of 1979, are repealed.

<< AR ST § 8-7-203 >>

(2) “Department” means the ~~Arkansas Department of Environmental Quality~~ or its successor;

(3) “Director” means the ~~Director of the Arkansas Department of Environmental Quality~~ or his or her successor;

SECTION 2709. The introductory language of Arkansas Code § 8-7-203(7)(A), concerning the definition of “hazardous waste” under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

<< AR ST § 8-7-203 >>

(7)(A) “Hazardous waste” means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may in the judgment of the ~~department~~ **Division of Environmental Quality**:

SECTION 2710. Arkansas Code § 8-7-204(a)(1)(A), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

<< AR ST § 8-7-204 >>

(1)(A) Any person who violates any provision of this subchapter, who commits any unlawful act under this subchapter, or who violates any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission or the ~~Arkansas Department~~ **Division** of Environmental Quality shall be guilty of a misdemeanor.

SECTION 2711. Arkansas Code § 8-7-204(a)(2)(A)(i), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

<< AR ST § 8-7-204 >>

(i) Violate any provision of this subchapter, commit any unlawful act under this subchapter, or violate any rule, regulation, or order of the commission or the ~~department~~ **division**, and leave the state or remove his or her person from the jurisdiction of this state; or

SECTION 2712. The introductory language of Arkansas Code § 8-7-204(b), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

<< AR ST § 8-7-204 >>

(b) Civil Penalties. The ~~department~~ **division** may institute a civil action in any court of competent jurisdiction to accomplish any of the following:

SECTION 2713. Arkansas Code § 8-7-204(b)(3), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

<< AR ST § 8-7-204 >>

(3) Recover all costs, expenses, and damages to the ~~department~~ **division** and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including, but not limited to, natural resource damages;

SECTION 2714. Arkansas Code § 8-7-204(c), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

<< AR ST § 8-7-204 >>

(c) Any person who violates any provision of this subchapter and regulations, rules, permits, or plans issued pursuant to this subchapter may be assessed an administrative civil penalty not to exceed twenty-five thousand dollars (\$25,000) per violation. Each day of a continuing violation may be deemed a separate violation for purposes of civil penalty assessment. No civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing in accordance with regulations adopted by the commission. All hearings and appeals arising under this subchapter shall be conducted in accordance with the procedures prescribed by §§ 8-4-205, 8-4-212, and 8-4-218 — 8-4-229. The procedures of this subsection may also be used to recover all costs, expenses, and damages to the ~~department~~ **division** and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including, but not limited to, natural resource damages.

SECTION 2715. Arkansas Code § 8-7-204(e)(1), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

<< AR ST § 8-7-204 >>

(e)(1) All moneys collected as reimbursement for expenses, costs, and damages to the ~~department~~ **division** shall be deposited into the operating fund of the ~~department~~ **division**.

SECTION 2716. Arkansas Code § 8-7-204(e)(3), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

<< AR ST § 8-7-204 >>

(3)(A) In his or her discretion, the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may authorize in-kind services as partial mitigation of cash penalties for use in projects or programs designed to advance environmental interests.

(B) The violator may provide in-kind services or cash contributions as directed by the ~~department~~ **division** by utilizing the violator's own expertise, by hiring and compensating subcontractors to perform the in-kind services,

by arranging and providing financing for the in-kind services, or by other financial arrangements initiated by the ~~department~~ **division** in which the violator and the ~~department~~ **division** retain no monetary benefit, however remote.

(C) The in-kind services shall not duplicate or augment services already provided by the ~~department~~ **division** through appropriations of the General Assembly.

SECTION 2717. Arkansas Code § 8-7-205(3), concerning unlawful actions under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

<< AR ST § 8-7-205 >>

(3) Dispose of hazardous waste at any disposal site or facility other than one for which a permit has been issued by the ~~Arkansas Department~~ **Division** of Environmental Quality pursuant to this subchapter; or

SECTION 2718. Arkansas Code § 8-7-208 is amended to read as follows:

<< AR ST § 8-7-208 >>

8-7-208. Official agency for program and agreements.

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality is designated as the official agency for the state for all purposes of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., and for the purpose of such other state or federal legislation as may be enacted to assist in the management of hazardous wastes.

(b)(1) The General Assembly encourages cooperative activities by the ~~department~~ **division** with other states for the improved management of hazardous wastes and, so far as is practicable, uniform state laws relating to the management of hazardous wastes and compacts between this and other states for the improved management of hazardous wastes.

(2) The ~~department~~ **division** may enter into agreements with the responsible authorities of the United States or of other states, subject to approval by the Governor, relative to policies, methods, means, and procedures to be employed in the management of hazardous wastes not inconsistent with the provisions of this subchapter and may carry out such agreements.

SECTION 2719. The introductory language of Arkansas Code § 8-7-209(a), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

<< AR ST § 8-7-209 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality shall have the following powers and duties:

SECTION 2720. Arkansas Code § 8-7-209(a)(6), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

<< AR ST § 8-7-209 >>

(6) To make such investigations and inspections and to hold such hearings, after notice, as the ~~Arkansas Department~~ **Division** of Environmental Quality may deem necessary or advisable for the discharge of the ~~Arkansas Department~~

Division of Environmental Quality's duties under this subchapter and to ensure compliance with this subchapter and any orders, rules, and regulations issued pursuant thereto;

SECTION 2721. Arkansas Code § 8-7-209(a)(8)(A), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

<< AR ST § 8-7-209 >>

(8)(A) To institute proceedings in the name of the ~~Arkansas Department~~ **Division** of Environmental Quality in any court of competent jurisdiction to compel compliance with and to restrain any violation of the provisions of this subchapter or any rules, regulations, and orders issued pursuant thereto or any permit issued thereunder, and require the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of this subchapter.

SECTION 2722. Arkansas Code § 8-7-209(a)(12), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

<< AR ST § 8-7-209 >>

(12) In addition to the powers enumerated above, the ~~Arkansas Department~~ **Division** of Environmental Quality shall have and may use in the administration and enforcement of this subchapter all of the powers which the ~~Arkansas Department~~ **Division** of Environmental Quality has under other laws administered by the ~~Arkansas Department~~ **Division** of Environmental Quality, including the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the Arkansas Solid Waste Management Act, § 8-6-201 et seq.

SECTION 2723. The introductory language of Arkansas Code § 8-7-209(b)(1), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

<< AR ST § 8-7-209 >>

(1) To adopt, after notice and public hearing, and to promulgate, modify, repeal, and enforce rules and regulations regarding hazardous waste management as may be necessary or appropriate to implement or effectuate the purposes and intent of this subchapter and the powers and duties of the ~~Arkansas Department~~ **Division** of Environmental Quality under this subchapter, including, but not limited to, rules and regulations for:

SECTION 2724. Arkansas Code § 8-7-209(b)(4) and (5), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, are amended to read as follows:

<< AR ST § 8-7-209 >>

(4) Promulgation of rules and regulations governing administrative procedures for challenging or contesting ~~Arkansas Department~~ **Division** of Environmental Quality actions;

(5) In the case of permitting or grants decisions, providing the right to appeal a permitting or grants decision rendered by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or his or her delegatee;

SECTION 2725. Arkansas Code § 8-7-209(b)(8), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

<< AR ST § 8-7-209 >>

(8) Make recommendations to the director regarding overall policy and administration of the ~~Arkansas Department~~ **Division** of Environmental Quality, provided, however, that the director shall always remain within the plenary authority of the Governor; and

SECTION 2726. Arkansas Code § 8-7-210 is amended to read as follows:

<< AR ST § 8-7-210 >>

8-7-210. Existing rules, regulations, etc.

(a) All existing rules and regulations of the ~~Arkansas Department~~ **Division** of Environmental Quality not inconsistent with the provisions of this subchapter relating to subjects embraced within this subchapter shall remain in full force and effect until expressly repealed, amended, or superseded by the Arkansas Pollution Control and Ecology Commission, insofar as the rules and regulations do not conflict with the provisions of this subchapter.

(b) All orders entered, permits granted, and pending legal proceedings instituted by the ~~department~~ **division** relating to subjects embraced within this subchapter shall remain unimpaired and in full force and effect until superseded by actions taken by the ~~department~~ **division** or commission under this subchapter.

(c) No existing civil or criminal remedies, public or private, for any wrongful action shall be excluded or impaired by this subchapter.

(d) The provisions of this subchapter and the rules and regulations promulgated pursuant to this subchapter shall govern if they conflict with the provisions of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or any action taken by the ~~department~~ **division** or commission under those laws.

SECTION 2727. Arkansas Code § 8-7-212 is amended to read as follows:

<< AR ST § 8-7-212 >>

8-7-212. Considerations in administration.

(a) In administering the provisions of this subchapter, the ~~Arkansas Department~~ **Division** of Environmental Quality may adopt and give appropriate effect to variations within this state in climate, geology, population density, and such other factors as may be relevant to the management of hazardous waste, the establishment of standards and permit conditions, and to the siting of permitted facilities.

(b) To the extent practicable, the rules, regulations, and procedures adopted by the ~~department~~ **division** pursuant to this subchapter shall be consistent with other environmentally related rules, regulations, and procedures of the ~~department~~ **division**. In administering the provisions of this subchapter and of all other laws under the administration

of the department **division**, the department **division** and the Arkansas Pollution Control and Ecology Commission shall coordinate and expedite the issuance of permits required by an applicant under one (1) or more laws, to the end of eliminating, insofar as practicable, any duplication of unnecessary time and expense to the applicant and the department **division**.

(c) The department **division** shall integrate all provisions of this subchapter with the appropriate provisions of all other laws which grant regulatory authority to the department **division** for purposes of administration and enforcement and shall avoid duplication to the maximum extent practicable.

SECTION 2728. Arkansas Code § 8-7-213 is amended to read as follows:

<< AR ST § 8-7-213 >>

8-7-213. Procedure generally.

The procedure of the ~~Arkansas Department~~ **Division** of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for issuance of rules and regulations, conduct of hearings, notice, power of subpoena, review of action on permits, right of appeal, presumptions, finality of actions, and related matters shall be as provided in § 8-4-101 et seq. and § 8-4-201 et seq., including, but not limited to, §§ 8-4-205, 8-4-210, 8-4-212 — 8-4-214, and 8-4-218 — 8-4-229 if they are not in conflict with the provisions set forth in this subchapter.

SECTION 2729. Arkansas Code § 8-7-214(a)(1), concerning an emergency order for an imminent hazard by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-214 >>

(a)(1) Notwithstanding any other provisions of this subchapter, the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, upon finding that the storage, transportation, treatment, or disposal of any waste may present an imminent and substantial hazard to the health of persons or to the environment and that an emergency exists requiring immediate action to protect the public health and welfare, he or she may, without notice or hearing, issue an order reciting the existence of such an imminent hazard and emergency and requiring that such action be taken as he or she determines to be necessary to protect the health of such persons or the environment and to meet the emergency.

SECTION 2730. Arkansas Code § 8-7-215(a), concerning requirements for a permit regarding a hazardous waste treatment or disposal facility or site, is amended to read as follows:

<< AR ST § 8-7-215 >>

(a) No person shall construct, substantially alter, or operate any hazardous waste treatment or disposal facility or site, nor shall any person store, treat, or dispose of any hazardous waste without first obtaining a permit from the ~~Arkansas Department~~ **Division** of Environmental Quality for the facility, site, or activity.

SECTION 2731. Arkansas Code § 8-7-216(a) and (b), concerning permits, issuance, and interim operations regarding the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 8-7-216 >>

(a) A permit shall be issued under such terms and conditions as the ~~Arkansas Department~~ **Division** of Environmental Quality may prescribe under this subchapter and under the terms and conditions the Arkansas Department of Transportation may prescribe for the transportation of hazardous waste.

(b) ~~A facility required to have a permit under this subchapter or which is operating under the terms of a permit issued under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or the Arkansas Solid Waste Management Act, § 8-6-201 et seq., as of March 14, 1979, may continue in operation until such time as a permit is issued under this subchapter by the Arkansas Department of Environmental Quality, provided the owner or operator of such facility has made application on forms provided by the Arkansas Department of Environmental Quality for such permit by September 14, 1979.~~

SECTION 2732. Arkansas Code § 8-7-216(c)(1), concerning permits, issuance, and interim operations regarding the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-216 >>

(c)(1) A facility required to have a permit under this subchapter due to statutory or regulatory changes which occur after March 14, 1979, may continue in operation until such time as a permit is issued under this subchapter, provided that the owner or operator notifies the ~~Arkansas Department~~ **Division** of Environmental Quality of newly regulated activities at the facility within ninety (90) days of the effective date of each statutory or regulatory change and makes initial permit application within one hundred eighty (180) days of the effective date of such changes on forms provided by the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 2733. Arkansas Code § 8-7-217 is amended to read as follows:

<< AR ST § 8-7-217 >>

8-7-217. Permits — Notice of hearing.

No permit shall be issued by the ~~Arkansas Department~~ **Division** of Environmental Quality or the Arkansas Pollution Control and Ecology Commission for any commercial hazardous waste treatment, storage, or disposal facility unless thirty (30) days' advance notice of a hearing has been placed in the largest newspaper published in the county in which a commercial hazardous waste treatment, storage, or disposal facility or facilities are located or proposed to be located, as well as published in the largest newspaper published in the adjoining counties. If there is no newspaper published in any of the counties so affected, the notice shall be published in the newspaper having the largest circulation in the county.

SECTION 2734. Arkansas Code § 8-7-218 is amended to read as follows:

<< AR ST § 8-7-218 >>

8-7-218. Permits — Compliance with subchapter, state and federal standards, regulations, etc.

(a) No permits shall be issued by the ~~Arkansas Department~~ **Division** of Environmental Quality for any facility unless the ~~department~~ **division**, after opportunity for public comment, has determined that the facility has been designed and will be operated in such manner that any emission from the facility will comply with the provisions of this subchapter and all applicable state and federal standards and regulations concerning air and water quality and that the transfer, handling, and storage of materials within the facility will not cause conditions which would violate state and federal standards concerning worker safety or create unreasonable hazards to the environment or to the health and welfare of the people living and working in or near the facility.

(b)(1) No permit shall be issued by the ~~department~~ **division** for any commercial disposal or storage facility off the site where the hazardous waste is generated until the ~~department~~ **division** has adopted rules, regulations, standards, and procedures pursuant to § 8-7-209.

(2) The rules, regulations, standards, procedures, or other requirements adopted and imposed by the ~~department~~ **division** shall not be less stringent than the regulations promulgated or revised by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.

(c) No permit shall be issued for hazardous waste treatment, storage, or disposal facilities except under the terms of regulations of the ~~department~~ **division** which conform to the provisions of § 3005 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6925.

SECTION 2735. Arkansas Code § 8–7–219 is amended to read as follows:

<< AR ST § 8–7–219 >>

8–7–219. Permits — Commercial facilities — Terms and conditions.

No permit shall be issued for any commercial hazardous waste treatment, storage, or disposal facility unless that facility meets such terms and conditions as the ~~Arkansas Department~~ **Division** of Environmental Quality may direct, including, but not limited to:

(1) Evidence of liability insurance in such amount as the ~~department~~ **division** may determine to be necessary for the protection of the public health and safety and the protection of the environment;

(2) Evidence of financial responsibility in such form and amount as the ~~department~~ **division** may determine to be necessary to ensure that, upon abandonment, cessation, or interruption of the operation of the facility, all appropriate measures are taken to prevent present and future damage to the public health and safety and to the environment;

(3)(A) Evidence that the personnel employed at the hazardous waste treatment or disposal facility meet such qualifications as to education and training as the ~~department~~ **division** may determine to be necessary to assure the safe and adequate operation of the facility.

(B) Persons charged with the direct supervision of the operation of any facility must be certified by the ~~department~~ **division** as having such qualifications after a review of the types, properties, and volume of hazardous waste to be treated or disposed of at the facility.

(C) The ~~department~~ **division** may require the recertification of supervisory personnel when there is any significant change in the types or properties of hazardous waste being treated or disposed of in any facility;

(4) Evidence of an appropriate preventive maintenance program, spill prevention plan, safety procedures, and contingency plans which have been developed in consultation with the fire department having jurisdiction and by the mayor or city manager of the municipality or by the county judge of the county in which the facility is to be located;

(5) Evidence that the location of the facility is consistent with the siting criteria established by the ~~department~~ **division** as provided in § 8–7–209(a)(3). The provisions of this subdivision (5) shall not apply to a treatment facility which began operation prior to the date of enactment of this act and which has an existing operating permit from the ~~department~~ **Arkansas Department of Environmental Quality, now the Division of Environmental Quality**, or to any subsequent modifications to such treatment facility, provided that the owner of the treatment facility can demonstrate that the modifications do not materially increase the degree of hazards associated with the treatment facility; and

(6) Evidence of such forms of assurance, including full fee ownership of lands, and all mineral rights thereto, to ensure that the owner of any hazardous waste landfill has the legal authority to commit the hazardous waste landfill to perpetual security.

SECTION 2736. Arkansas Code § 8-7-220(b), concerning the Arkansas Department of Environmental Quality's ability to grant permits, the permit's duration, and the renewal of permits, is amended to read as follows:

<< AR ST § 8-7-220 >>

(b) Permits shall be subject to renewal by the ~~Arkansas Department~~ **Division** of Environmental Quality upon a showing that the facility has been operated in accordance with the terms of the permit, the rules and regulations applicable to such facility, and in compliance with all other provisions of this subchapter.

SECTION 2737. Arkansas Code § 8-7-221 is amended to read as follows:

<< AR ST § 8-7-221 >>

8-7-221. Permits — Revocation.

Any permit issued under §§ 8-7-215 — 8-7-220 shall be subject to revocation for failure of the permittee to comply with the terms and conditions of the permit, the rules and regulations of the ~~Arkansas Department~~ **Division** of Environmental Quality applicable thereto, or the provisions of this subchapter.

SECTION 2738. Arkansas Code § 8-7-222 is amended to read as follows:

<< AR ST § 8-7-222 >>

8-7-222. Permits — Hearing upon denial, revocation, or modification.

Any person who is denied a permit by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or who has such permit revoked or modified shall be afforded an opportunity for a hearing by the Arkansas Pollution Control and Ecology Commission in connection therewith upon written application made within thirty (30) days after service of notice of the denial, revocation, or modification.

SECTION 2739. Arkansas Code § 8-7-223 is amended to read as follows:

<< AR ST § 8-7-223 >>

8-7-223. Location of landfill.

No hazardous waste landfill disposal facility off the site of generation shall be located within one-half (½) mile of any occupied dwelling unless the applicant shall affirmatively demonstrate and the ~~Arkansas Department~~ **Division** of Environmental Quality shall specifically find that, because of the nature and amounts of the materials to be placed in such hazardous waste landfill disposal facility, a lesser distance will provide adequate margins of safety even under abnormal operating conditions.

SECTION 2740. Arkansas Code § 8-7-224(a), concerning the rules for transporting hazardous waste, is amended to read as follows:

<< AR ST § 8-7-224 >>

(a)(1) Following notice and public hearing, the Arkansas Department of Transportation, in consultation with the ~~Arkansas Department~~ **Division** of Environmental Quality, shall issue rules and regulations for the transportation of hazardous waste.

(2) The rules and regulations shall be consistent with applicable rules and regulations issued by the United States Department of Transportation and with any rules, regulations, and standards issued by the ~~Arkansas Department~~ **Division** of Environmental Quality under this subchapter.

SECTION 2741. Arkansas Code § 8-7-225 is amended to read as follows:

<< AR ST § 8-7-225 >>

8-7-225. Records and examinations.

(a) The owner or operator of any hazardous waste management facility or site shall notify the ~~Arkansas Department~~ **Division** of Environmental Quality as to hazardous waste management activities in accordance with the requirements of this subchapter and regulations, permits, and orders issued under this subchapter, and shall establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, take such samples, perform such tests, and provide such other information to the ~~department~~ **division** as the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may reasonably require.

(b) The ~~department~~ **division** or any authorized employee or agent thereof may examine and copy any books, papers, records, or memoranda pertaining to the operation of the facility or site.

(c) The ~~department~~ **division** or any authorized employee or agent thereof may enter upon any public or private property for the purpose of obtaining information or conducting surveys or investigations necessary or appropriate for the purposes of this subchapter.

(d)(1)(A) Any records, reports, or information obtained under this subchapter and any permits, permit applications, and related documentation shall be available to the public for inspection and copying.

(B) Upon a showing satisfactory to the director that the records, reports, permits, documentation, information, or any part thereof would, if made public, divulge methods or processes entitled to protection as trade secrets, the director shall consider, treat, and protect the records, reports, or information as confidential.

(2)(A) As necessary to carry out the provisions of this subchapter, information afforded confidential treatment may be transmitted under a continuing claim of confidentiality to other officers or employees of the state or of the United States if the owner or operator of the facility to which the information pertains is informed of the transmittal and if the information has been acquired by the ~~department~~ **division** under the provisions of this subchapter.

(B) The provisions of subdivision (d)(2)(A) of this section shall not be construed to limit the ~~department's~~ **division's** authority to release confidential information during emergency situations.

(3) Any violation of this subsection shall be unlawful and constitute a misdemeanor.

SECTION 2742. Arkansas Code § 8-7-226 is amended to read as follows:

<< AR ST § 8-7-226 >>

8-7-226. Fees — Fund established.

(a) The Arkansas Pollution Control and Ecology Commission shall have authority to establish by regulation a schedule of fees to recover the costs of processing permit applications and permit renewal proceedings, on-site inspections and monitoring, the certification of personnel to operate hazardous waste treatment, storage, or disposal facilities, and other activities of ~~Arkansas Department~~ **Division** of Environmental Quality personnel which are reasonably necessary to

assure that generators and transporters of hazardous waste and hazardous waste management facilities are complying with the provisions of this subchapter and which reasonably should be borne by the transporter, generator, or owner or operator of the hazardous waste management facility.

(b) All fees collected pursuant to this section shall be dedicated to enabling the ~~department~~ **division** to receive authorization to administer a hazardous waste management program in Arkansas pursuant to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984.

(c) The Hazardous Waste Permit Fund is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State. All fees collected under the provisions of this section shall be deposited into this fund.

(d) The commission is hereby authorized to promulgate such rules and regulations as are necessary to administer the fees, rates, tolls, or charges for services established by this section and is directed to prescribe such fees, rates, tolls, or charges for the services delivered by the ~~department~~ **division** or its successor in such manner as may be necessary to support the programs of the ~~department~~ **division** as directed by the Governor and the General Assembly.

SECTION 2743. Arkansas Code § 8-7-227(a)(3), concerning corrective action at permitted facilities and interim status facilities, is amended to read as follows:

<< AR ST § 8-7-227 >>

(3) The corrective action component of the permit shall also require that corrective action be taken beyond the hazardous waste treatment, storage, or disposal facility boundary when necessary to protect human health and the environment unless the owner or operator of the hazardous waste treatment, storage, or disposal facility concerned demonstrates to the satisfaction of the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake the action.

SECTION 2744. Arkansas Code § 8-7-302(5), concerning legislative findings concerning the disposal of hazardous waste, is amended to read as follows:

<< AR ST § 8-7-302 >>

(5) The Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., authorizes the ~~Arkansas Department~~ **Division** of Environmental Quality to encourage the development of interstate agreements for the management of hazardous waste and to enter into such interstate agreements, with the concurrence of the Governor.

SECTION 2745. Arkansas Code § 8-7-304(2) and (3), concerning the definitions of “department” and “director” under the Arkansas Resource Reclamation Act of 1979, are repealed.

<< AR ST § 8-7-304 >>

(2) “Department” means the ~~Arkansas Department~~ of Environmental Quality;

(3) “Director” means the ~~Director of the Arkansas Department~~ of Environmental Quality;

SECTION 2746. The introductory language of Arkansas Code § 8-7-304(7)(A), concerning the definition of “hazardous waste” under the Arkansas Resource Reclamation Act of 1979, is amended to read as follows:

<< AR ST § 8-7-304 >>

(7)(A) “Hazardous waste” means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may, in the judgment of the department **Division of Environmental Quality**:

SECTION 2747. Arkansas Code § 8-7-307(a)(2) and (3), concerning unlawful actions, acts, and omissions of third parties under the Arkansas Resource Reclamation Act of 1979, are amended to read as follows:

<< AR ST § 8-7-307 >>

(2) Transport hazardous waste into or out of the state, except as provided by regulations established by the ~~Arkansas Department~~ **Division** of Environmental Quality pursuant to the provisions of this subchapter; or

(3) Dispose of hazardous waste in the state except as provided by regulations established by the ~~department~~ **division** pursuant to this subchapter.

SECTION 2748. The introductory language of Arkansas Code § 8-7-308, concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-308 >>

The ~~Arkansas Department~~ **Division** of Environmental Quality shall have the following powers and duties:

SECTION 2749. Arkansas Code § 8-7-308(4) and (5), concerning the powers and duties of the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 8-7-308 >>

(4) To prohibit, by regulation or by condition of permit, the disposal of any hazardous waste within the state unless the owner or custodian of the hazardous waste can demonstrate to the reasonable satisfaction of the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality that it is technically or economically infeasible for the hazardous waste to be treated;

(5) To issue, continue in effect, revoke, modify, or deny, under such terms as the ~~department~~ **division** or the General Assembly may prescribe, permits for the establishment, construction, operation, or maintenance of hazardous waste treatment or disposal facilities;

SECTION 2750. Arkansas Code § 8-7-502(b) and (c), concerning the legislative intent under the Remedial Action Trust Fund Act, are amended to read as follows:

<< AR ST § 8-7-502 >>

(b) The purpose of this subchapter is to encourage privately funded remedial action and to clarify that persons who have undertaken remedial action at a hazardous substance site in response to an action initiated by the ~~Arkansas Department~~ **Division** of Environmental Quality pursuant to § 8-7-508 may obtain contribution from any other person who is liable for remediation of the hazardous substance site.

(c) A further purpose of this subchapter is to clarify the General Assembly's intent to provide the ~~department~~ **division** with the necessary funds for remedial action at a hazardous substance site, recognizing that both public and private funds must be expended to implement remedial action at the hazardous substance sites which exist in this state. Costs and expenses for remedial action, whether expended by the ~~department~~ **division** or by any person liable for the hazardous substance site, are legal damages to persons liable to the state and to persons liable to any other person for contribution, whether the liability arises by voluntary compliance with this subchapter pursuant to an order from or settlement with the ~~department~~ **division**, or by suit for injunctive relief, declaratory judgment, contribution, damages, or restitution, and whether the suit is brought by the state or by any party authorized to bring a suit for relief under this subchapter.

SECTION 2751. Arkansas Code § 8-7-503(2) and (3), concerning the definitions of “department” and “director” under the Remedial Action Trust Fund Act, are repealed.

<< AR ST § 8-7-503 >>

(2) ~~“Department” means the Arkansas Department of Environmental Quality;~~

(3) ~~“Director” means the Director of the Arkansas Department of Environmental Quality;~~

SECTION 2752. Arkansas Code § 8-7-504(b)(1), concerning the penalties for unlawful acts under the Remedial Action Trust Fund Act, is amended to read as follows:

<< AR ST § 8-7-504 >>

(1) A civil penalty in such amount as the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality shall find appropriate, not to exceed twenty-five thousand dollars (\$25,000) per day of the violation;

SECTION 2753. Arkansas Code § 8-7-505(3), concerning unlawful acts under the Remedial Action Trust Fund Act, is amended to read as follows:

<< AR ST § 8-7-505 >>

(3) To violate any order issued by the ~~Arkansas Department~~ **Division** of Environmental Quality under this subchapter or any provision of such an order.

SECTION 2754. Arkansas Code § 8-7-508(a), concerning remedial and removal authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-508 >>

(a)(1) Upon finding that a hazardous substance site exists or may exist, the ~~Arkansas Department~~ **Division** of Environmental Quality, upon reasonable notice and after opportunity for hearing, may issue an order to any person liable for the site under § 8-7-512 if that person has caused or contributed to the release or threatened release of hazardous substances at the hazardous substance site. This order shall require that such remedial actions be taken as are necessary

to investigate, control, prevent, abate, treat, or contain any releases or threatened releases of hazardous substances from the hazardous substance site.

(2) The fact that such a hazardous substance site is or is not listed by the Arkansas Pollution Control and Ecology Commission pursuant to § 8-7-509(f) shall in no manner limit the authority of the ~~department~~ **division** under this subchapter.

SECTION 2755. Arkansas Code § 8-7-508(b), concerning remedial and removal authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-508 >>

(b) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or any employee or authorized agent of the ~~department~~ **division** may enter upon any private or public property for the purpose of collecting information under this subchapter and for initiating and implementing remedial actions.

SECTION 2756. Arkansas Code § 8-7-508(d), concerning remedial and removal authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-508 >>

(d) In taking removal action or remedial actions pursuant to this subchapter, the ~~department~~ **division** or any contractor of the ~~department~~ **division** under this section shall not be required to obtain any state or local permit for the portion of any removal action or remedial action conducted pursuant to this subchapter entirely on site when the removal action or remedial action is otherwise carried out in compliance with the regulations of the ~~department~~ **division**.

SECTION 2757. Arkansas Code § 8-7-508(f), concerning remedial and removal authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-508 >>

(f) Whenever the director has reason to believe that a release or threatened release of hazardous substances may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment, the director and the employees and the authorized representatives of the ~~department~~ **division** shall have the right to enter upon any affected private or public property for the purpose of collecting information and for initiating and implementing appropriate removal or remedial actions.

SECTION 2758. Arkansas Code § 8-7-509(b), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows:

<< AR ST § 8-7-509 >>

(b) The Hazardous Substance Remedial Action Trust Fund will be administered by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, who shall authorize expenditures from the Hazardous Substance Remedial Action Trust Fund.

SECTION 2759. Arkansas Code § 8-7-509(d)(3)(A), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows:

<< AR ST § 8-7-509 >>

(A) For the costs and expenses reasonably necessary for the administration of this subchapter by the ~~Arkansas Department~~ **Division** of Environmental Quality;

SECTION 2760. Arkansas Code § 8-7-509(e)(2), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows:

<< AR ST § 8-7-509 >>

(2) Reimbursement of all costs incurred by the ~~department~~ **division** in taking removal actions in connection with a release or threatened release.

SECTION 2761. Arkansas Code § 8-7-509(f)(1), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows:

<< AR ST § 8-7-509 >>

(f)(1) No expenditures from the Hazardous Substance Remedial Action Trust Fund, as authorized by subdivisions (d) (3)(B) and (C) of this section, shall be made prior to the approval by the Arkansas Pollution Control and Ecology Commission of a prioritized listing of hazardous substance sites at which remedial actions are authorized through the use of Hazardous Substance Remedial Action Trust Fund moneys. This listing shall be revised annually by the ~~department~~ **division** and submitted to the commission for approval after public notice and opportunity for hearing.

SECTION 2762. Arkansas Code § 8-7-510 is amended to read as follows:

<< AR ST § 8-7-510 >>

8-7-510. Federal actions or compensation not to be duplicated.

No actions taken pursuant to this subchapter by the ~~Arkansas Department~~ **Division** of Environmental Quality shall duplicate federal actions, and no claims for the costs of response or other claims compensable under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510, shall be compensable under this subchapter.

SECTION 2763. Arkansas Code § 8-7-511(a) and (b), concerning the furnishing of information to the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 8-7-511 >>

(a) For purposes of assisting in determining the need for remedial action in connection with a release or threat of release of hazardous substances under this subchapter or for enforcing the provisions of this subchapter, any person who stores, treats, or disposes of hazardous substances, or, if necessary to ascertain facts not available at the site or facility where the hazardous substances are stored, treated, or disposed of, any person who generates, transports, otherwise handles, or has handled hazardous substances shall, upon request of any officer or employee of the ~~Arkansas Department~~ **Division** of

Environmental Quality, furnish information relating to the hazardous substance and permit the person at all reasonable times to have access to and copy all records relating to the hazardous substances and to inspect and obtain samples of any such hazardous substances or other materials.

(b) However, any information which would constitute a trade secret under § 4-75-601 et seq., obtained by the department **Department of Energy and Environment, the Secretary of the Department of Energy and Environment, the division**, or its **any employees of the Department of Energy and Environment or division**, in the administration of this subchapter, except emission data, shall be kept confidential.

SECTION 2764. Arkansas Code § 8-7-512(b)(1), concerning the liability for cost and immunity from liability, is amended to read as follows:

<< AR ST § 8-7-512 >>

(b)(1) No person shall be liable under this subchapter for damages as a result of actions taken or omitted in the course of rendering care, assistance, or advice at the direction of the **Department of Energy and Environment, the Secretary of the Department of Energy and Environment, or the Arkansas Department Division** of Environmental Quality, with respect to an incident creating a danger to public health or welfare or the environment as a result of any release of a hazardous substance or the threat of a release of a hazardous substance.

SECTION 2765. Arkansas Code § 8-7-512(c)(1), concerning the liability for cost and immunity from liability, is amended to read as follows:

<< AR ST § 8-7-512 >>

(c)(1) A person taking remedial action or removal action under this subchapter as a contractor for the department **or division** shall not be liable under this subchapter or under any other state law to any person for injuries, costs, damages, expenses, or other liability, including, but not limited to, claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or economic loss resulting from a release or threatened release of hazardous substances.

SECTION 2766. Arkansas Code § 8-7-514(a) and (b), concerning recovery of expenditures from the Hazardous Substance Remedial Action Trust Fund, are amended to read as follows:

<< AR ST § 8-7-514 >>

(a) After an expenditure from the Hazardous Substance Remedial Action Trust Fund for a removal action or remedial action, the ~~Arkansas Department~~ **Division** of Environmental Quality shall institute action to recover the expenditure from the person or persons liable for causing the release of the hazardous substance, including taking any appropriate legal action.

(b) Making use of any and all appropriate existing state legal remedies, the ~~department~~ **division** or the Attorney General shall act to recover the amount expended by the state for any and all remedial action or removal actions from any and all parties identified as responsible parties for each hazardous substance.

SECTION 2767. Arkansas Code § 8-7-516(b), concerning liens for expenditures and the value of improvements, is amended to read as follows:

<< AR ST § 8-7-516 >>

(b) The lien shall be effective upon the filing by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality of a notice of lien with the circuit clerk in the county in which the real property is located.

SECTION 2768. Arkansas Code § 8-7-516(d), concerning liens for expenditures and the value of improvements, is amended to read as follows:

<< AR ST § 8-7-516 >>

(d) The notice of lien shall be filed within thirty (30) days of the date of the last act performed on the real property by the ~~Arkansas Department~~ **Division** of Environmental Quality or its agent under this subchapter.

SECTION 2769. Arkansas Code § 8-7-517 is amended to read as follows:

<< AR ST § 8-7-517 >>

8-7-517. Punitive damages.

If any person who is liable for a release or threat of release of a hazardous substance fails without sufficient cause to properly provide remedial action or removal action upon order of the ~~Arkansas Department~~ **Division** of Environmental Quality, the person may be liable to the state for punitive damages in an amount equal to three (3) times the amount of any costs incurred by the state as a result of the failure to take proper action.

SECTION 2770. The introductory language of Arkansas Code § 8-7-518(a), concerning fees on the generation of hazardous waste, is amended to read as follows:

<< AR ST § 8-7-518 >>

(a) On or before April 1 of each year, the following persons shall report the total amount of such hazardous waste generated or accepted to the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, except as provided in this section, on forms prescribed by the ~~Arkansas Department~~ **Division** of Environmental Quality:

SECTION 2771. The introductory language of Arkansas Code § 8-7-518(b)(1)(A), concerning fees on the generation of hazardous waste, is amended to read as follows:

<< AR ST § 8-7-518 >>

(b)(1)(A) Except as provided in this section, there is assessed a fee to be collected by the ~~department~~ **division** upon every person who generated hazardous waste in Arkansas or who accepted hazardous waste generated outside of the state which were subsequently received for treatment, storage, or disposal in Arkansas based upon the combined total of such hazardous waste as is required to be reported pursuant to subsection (a) of this section.

SECTION 2772. Arkansas Code § 8-7-518(b)(2)(C) and (D), concerning fees on the generation of hazardous waste, are amended to read as follows:

<< AR ST § 8-7-518 >>

(C) The ~~department~~ **division** shall calculate the amount of fee refund due and provide the applicant with a copy of the calculation.

(D) The ~~department~~ **division** shall promptly pay any refund due from the Hazardous Substance Remedial Action Trust Fund.

SECTION 2773. Arkansas Code § 8-7-518(c)-(e), concerning fees on the generation of hazardous waste, are amended to read as follows:

<< AR ST § 8-7-518 >>

(c) On or before July 1 of each year, each person subject to subsection (a) of this section shall pay to the ~~department~~ **division** the fee required by subsection (b) of this section.

(d) To the extent practicable, the ~~department~~ **division** shall coordinate the reporting requirements of this section with the reporting requirements of the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., and the regulations adopted under the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq. The content of the reporting shall be consistent with federal reporting requirements pursuant to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., in all respects with the exception of frequency.

(e) The ~~department~~ **division** shall prepare annually a statement of all revenues collected by the fees under this section, as well as all other revenues to the fund, and all expenditures from the fund and obligations of the fund and the current balance in the fund.

SECTION 2774. Arkansas Code § 8-7-519 is amended to read as follows:

<< AR ST § 8-7-519 >>

8-7-519. Appeals.

An appeal may be taken from any final order of the ~~Arkansas Department~~ **Division** of Environmental Quality under this subchapter as provided in §§ 8-4-202, 8-4-210, 8-4-212 — 8-4-214, 8-4-218, 8-4-219, and 8-4-221 — 8-4-229 and in accordance with regulations promulgated by the Arkansas Pollution Control and Ecology Commission under this subchapter.

SECTION 2775. Arkansas Code § 8-7-521(a) and (b), concerning site access for remedial or removal actions, are amended to read as follows:

<< AR ST § 8-7-521 >>

(a) For purposes of responding to an administrative or judicial order or settlement entered pursuant to § 8-7-508, the owner or the operator of a facility that is a hazardous substance site, or any person who otherwise controls access to such a facility, shall provide access to the ~~Arkansas Department~~ **Division** of Environmental Quality, any employee of the ~~department~~ **division**, or any other person, duly designated by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, who undertakes such activities as are required to carry out the terms of the order or settlement.

(b) Any person who impedes or interferes with a person who is entitled to site access for the purpose of conducting remedial action or removal action at a hazardous substance site pursuant to the terms of an administrative or judicial

order or settlement may be assessed a civil penalty by the ~~department~~ **division** in an administrative proceeding or by the court in a judicial proceeding for a site access injunction of up to ten thousand dollars (\$10,000) per day that site access is impeded.

SECTION 2776. Arkansas Code § 8-7-603 is amended to read as follows:

<< AR ST § 8-7-603 >>

8-7-603. Approval and issuance of permits.

Neither the ~~Arkansas Department~~ **Division** of Environmental Quality nor any other agency or authority having the responsibility for approving and issuing permits for facilities for the disposal or storage of low-level radioactive waste in this state shall have the authority to approve or issue a permit for any facility unless the facility will fully comply with the requirements of this subchapter in all respects.

SECTION 2777. Arkansas Code § 8-7-702(1), concerning the definition of a “hazardous site” regarding federally listed hazardous sites, is amended to read as follows:

<< AR ST § 8-7-702 >>

(1) “Hazardous site” means any geographic area located, in whole or in part, in the State of Arkansas, access to or use of which is determined by the ~~Arkansas Department~~ **Division** of Environmental Quality to be necessary or appropriate to implement a response ordered by the President of the United States;

SECTION 2778. Arkansas Code § 8-7-705 is amended to read as follows:

<< AR ST § 8-7-705 >>

8-7-705. Restrictions on use of hazardous substances.

Construction on or at a hazardous site and the use of such hazardous site for any residential, commercial, manufacturing, industrial, or recreational purposes shall be prohibited unless and until the ~~Arkansas Department~~ **Division** of Environmental Quality issues an order terminating, wholly or partially, such prohibitions. Such order shall be subject to the procedural guidelines set forth in §§ 8-4-212 — 8-4-214 and 8-4-222 — 8-4-229 of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

SECTION 2779. Arkansas Code § 8-7-706 is amended to read as follows:

<< AR ST § 8-7-706 >>

8-7-706. Ad valorem tax exemption.

Upon initiation of a response action at a hazardous site, such hazardous site shall be appraised at no value for purposes of any ad valorem taxes levied by any state, county, or local governmental authority unless and until the ~~Arkansas Department~~ **Division** of Environmental Quality issues an order wholly terminating the construction and use prohibitions established by § 8-7-705. This section shall not apply to the interest in such hazardous site owned by any passive-site owner or its successors and assigns that have violated § 8-7-703(a).

SECTION 2780. Arkansas Code § 8-7-801(4), concerning the definition of “department” under the laws for regulated substance storage tanks, is repealed.

<< AR ST § 8-7-801 >>

(4) “Department” means the Arkansas Department of Environmental Quality;

SECTION 2781. Arkansas Code § 8-7-801(10)(B), concerning the definition of “release” under the laws for regulated substance storage tanks, is amended to read as follows:

<< AR ST § 8-7-801 >>

(B) “Release” does not include releases that are permitted or authorized by the ~~department~~ **division** or by federal law;

SECTION 2782. Arkansas Code § 8-7-802(a)(2)(B)(ii), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-7-802 >>

(ii) The fee shall be used by the ~~Arkansas Department~~ **Division** of Environmental Quality for administrative and program costs.

SECTION 2783. Arkansas Code § 8-7-802(a)(2)(C)(ii), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-7-802 >>

(ii) The fee shall be used by the ~~Arkansas Department~~ **Division** of Environmental Quality for administrative and program costs, and ten dollars (\$10.00) of the fee collected by the ~~Arkansas Department~~ **Division** of Environmental Quality shall be remitted to the State Treasury, there to be deposited as special revenues to the credit of the ~~Department~~ **Division** of Arkansas State Police Fund to be used for the purposes of above-ground storage tank monitoring and regulation by the ~~Department~~ **Division** of Arkansas State Police.

SECTION 2784. The introductory language of Arkansas Code § 8-7-802(b), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-7-802 >>

(b) The ~~Arkansas Department~~ **Division** of Environmental Quality shall have the following powers and duties:

SECTION 2785. Arkansas Code § 8-7-802(b)(3), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-7-802 >>

(3) To accept and administer loans and grants from the United States Government and from such other sources as may be available to the ~~Arkansas Department~~ **Division** of Environmental Quality for the planning, implementation, and enforcement of an underground storage tank program for release detection, prevention, corrective action, and financial responsibility;

SECTION 2786. Arkansas Code § 8-7-802(b)(5), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-7-802 >>

(5) To enter upon any public or private property for the purpose of obtaining information, conducting surveys or investigations, or taking corrective action, and the ~~Arkansas Department~~ **Division** of Environmental Quality may copy or require submission of books, papers, records, memoranda, or data pertaining to the management of underground storage tanks;

SECTION 2787. Arkansas Code § 8-7-804 is amended to read as follows:

<< AR ST § 8-7-804 >>

8-7-804. Procedures generally.

The procedure of the ~~Arkansas Department~~ **Division** of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for issuance of rules and regulations, conduct of hearings, notice, power of subpoena, review of action on permits, right of appeal, presumptions, finality of actions, and related matters shall be as provided in §§ 8-4-101 — 8-4-106 and 8-4-201 — 8-4-229, including, but not limited to, §§ 8-4-205, 8-4-210, 8-4-212 — 8-4-214, and 8-4-218 — 8-4-229 to the extent they are not in conflict with the provisions of this subchapter.

SECTION 2788. Arkansas Code § 8-7-805(a), concerning the license requirement to certify the installation or testing of an underground storage tank, is amended to read as follows:

<< AR ST § 8-7-805 >>

(a) It shall be unlawful for an individual to certify the installation or testing of an underground storage tank unless the individual has been duly licensed by the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 2789. Arkansas Code § 8-7-805(b)(1)(B), concerning the license requirement to certify the installation or testing of an underground storage tank, is amended to read as follows:

<< AR ST § 8-7-805 >>

(B) Which provides that the ~~department~~ **division** is the obligee or payee of the instrument and otherwise complies with the regulations promulgated under this subchapter.

SECTION 2790. Arkansas Code § 8-7-805(d), concerning the license requirement to certify the installation or testing of an underground storage tank, is amended to read as follows:

<< AR ST § 8-7-805 >>

(d) In the event the licensee or contracting company fails to properly install, remove, repair, close, upgrade, or test any underground storage tank pursuant to state law or regulation, the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality shall commence proceedings to collect on the surety bond, letter of credit, or cash bond on which the ~~department~~ **division** is the obligee or payee.

SECTION 2791. Arkansas Code § 8-7-806(a)(3), concerning penalties and enforcement for regulated substance storage tanks, is amended to read as follows:

<< AR ST § 8-7-806 >>

(3) To violate any order issued by the ~~Arkansas Department~~ **Division** of Environmental Quality under this subchapter or any provision of any such order.

SECTION 2792. Arkansas Code § 8-7-806(d)(5), concerning penalties and enforcement for regulated substance storage tanks, is amended to read as follows:

<< AR ST § 8-7-806 >>

(5) The administrative procedures set forth in § 8-7-804 may be used to recover all costs, expenses, and damages to the ~~department~~ **division** and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including, but not limited to, natural resource damages.

SECTION 2793. The introductory language of Arkansas Code § 8-7-806(e), concerning penalties and enforcement for regulated substance storage tanks, is amended to read as follows:

<< AR ST § 8-7-806 >>

(e) The ~~department~~ **division** is authorized to institute a civil action in any court of competent jurisdiction to accomplish any or all of the following:

SECTION 2794. Arkansas Code § 8-7-806(e)(3), concerning penalties and enforcement for regulated substance storage tanks, is amended to read as follows:

<< AR ST § 8-7-806 >>

(3) Recover all costs, expenses, and damages to the ~~department~~ **division** and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including, but not limited to, natural resource damages;

SECTION 2795. Arkansas Code § 8-7-807(a)-(c), concerning the responsibility and liability of an owner of a underground storage tank, are amended to read as follows:

<< AR ST § 8-7-807 >>

(a)(1) Upon a determination that a release of a regulated substance from a storage tank has occurred, the owner or operator shall notify the ~~Arkansas Department~~ **Division** of Environmental Quality. The owner or operator shall immediately undertake to collect and remove the release and to restore the area affected in accordance with the requirements of this subchapter.

(2) However, the obligation of an owner or operator of an aboveground storage tank to notify the department **division** or undertake the other activities required in this subsection shall not exceed and will be limited to the existing requirements of any other applicable federal or state statutes or regulations.

(b) If the owner or operator fails to proceed as required in subsection (a) of this section, the owner and operator shall be liable to the department **division** for any costs incurred by the department **division** for undertaking corrective action or enforcement action with respect to the release of a regulated substance from a storage tank.

(c)(1)(A) A release site property owner or adjacent property owner shall not unduly impede or interfere with the efforts of the department **division** or the owner or operator to undertake investigation, site assessment, or corrective action in accordance with the requirements of this subchapter.

(B) The department **division** or the owner, as defined in § 8-7-801, or operator shall undertake investigation, site assessment, or corrective action, as approved by the department **division** after notice to the affected parties, that minimizes to the most reasonable extent practicable any interference with the release site property owner's or adjacent property owner's use and enjoyment of the property, taking into consideration the relevant private and commercial interests and the release site property owner's or adjacent property owner's need for access.

(2)(A) A release site property owner or adjacent property owner that violates subdivision (c)(1) of this section is liable for any investigation, site assessment, or corrective action costs resulting from the violation.

(B) If the release site property owner or adjacent property owner denies access to property when the access is reasonably necessary for investigation, site assessment, or corrective action undertaken by the department **division** or by the owner or operator under a department **division** directive, order, or approved corrective action plan, the department **division** may order the release site property owner or adjacent property owner to undertake the portion of investigation, site assessment, or corrective action that was prohibited by the denial of access.

(3) This section does not impair any right of the release site property owner or adjacent property owner to seek equitable or legal remedies, including without limitation claims for trespass, compensation as the result of eminent domain, damages for temporary or permanent takings of rights in land, contribution, and any other right or remedy allowed by state or federal law or regulation.

SECTION 2796. Arkansas Code § 8-7-807(e), concerning the responsibility and liability of an owner of a underground storage tank, is amended to read as follows:

<< AR ST § 8-7-807 >>

(e) Any costs recovered by the department **division** under this section shall be used to reimburse the Petroleum Storage Tank Trust Fund in the amount utilized by the department **division** and the balance, if any, deposited into the Regulated Substance Storage Tank Program Fund.

SECTION 2797. Arkansas Code § 8-7-808 is amended to read as follows:

<< AR ST § 8-7-808 >>

8-7-808. Regulated Substance Storage Tank Program Fund.

There is hereby established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Regulated Substance Storage Tank Program Fund". Such Regulated Substance Storage Tank Program Fund shall consist of federal funds, any necessary state matching funds as may be provided by

the General Assembly, licensure fees, annual registration fees, and any moneys recovered by the ~~Arkansas Department~~ **Division** of Environmental Quality which are attributable to collections of civil penalties under § 8-7-806 or to costs under § 8-7-807 not owed the Petroleum Storage Tank Trust Fund. All said moneys shall be deposited as special revenues to be used in the administration of this subchapter.

SECTION 2798. Arkansas Code § 8-7-809(b)(1), concerning corrective actions and orders of the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-809 >>

(b)(1) Notwithstanding any other provisions of this subchapter, the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, upon finding that the release may present an imminent and substantial hazard to the health of persons or to the environment and that an emergency exists requiring immediate action to protect the public health and welfare or the environment may, without notice or hearing, issue an order reciting the existence of such an imminent hazard and emergency and requiring that such action be taken as he or she determines to be necessary to protect the health of such persons or the environment and to meet the emergency.

SECTION 2799. Arkansas Code § 8-7-810(a), concerning insurance pools for owners and operators of storage tanks, is amended to read as follows:

<< AR ST § 8-7-810 >>

(a) Owners or operators of storage tanks who are unable to demonstrate financial responsibility in the minimum amounts specified by the ~~Arkansas Department~~ **Division** of Environmental Quality may establish an insurance pool in order to demonstrate such financial responsibility.

SECTION 2800. Arkansas Code § 8-7-811 is amended to read as follows:

<< AR ST § 8-7-811 >>

8-7-811. Trade secrets.

(a) Any records, reports, or information obtained by the **Department of Energy and Environment, the Secretary of the Department of Energy and Environment, or the** ~~Arkansas Department~~ **Division** of Environmental Quality or by the department's **or division's** employees in the administration of this subchapter, except release data, shall be kept confidential upon a showing satisfactory to the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality that the records, reports, or information would constitute a trade secret under § 4-75-601 et seq.

(b) As necessary to carry out the provisions of this subchapter, information afforded confidential treatment may be transmitted under a continuing claim of confidentiality to other officers or employees of the state or of the United States if the owner or operator of the facility to which the information pertains is informed of the transmittal and if the information has been acquired by the ~~department's~~ **division's** under the provisions of this subchapter.

(c) The provisions of this section shall not be construed to limit the ~~department's~~ **division's** authority to release confidential information during emergency situations.

(d) Any violation of this section shall be unlawful and shall constitute a misdemeanor.

SECTION 2801. Arkansas Code § 8–7–812(b), concerning the conflicts between regulated substance storage tanks and the Arkansas Water and Air Pollution Control Act, is amended to read as follows:

<< AR ST § 8–7–812 >>

(b) The provisions of this subchapter and the rules and regulations promulgated pursuant to this subchapter shall govern if they conflict with the provisions of the Arkansas Water and Air Pollution Control Act, § 8–4–101 et seq., the Arkansas Solid Waste Management Act, § 8–6–201 et seq., or the Arkansas Hazardous Waste Management Act of 1979, § 8–7–201 et seq., or any action taken by the ~~Arkansas Department~~ **Division** of Environmental Quality under the Arkansas Water and Air Pollution Control Act, § 8–4–101 et seq., the Arkansas Solid Waste Management Act, § 8–6–201 et seq., or the Arkansas Hazardous Waste Management Act of 1979, § 8–7–201 et seq.

SECTION 2802. Arkansas Code § 8–7–902(7) and (8), concerning the definition of “department” and “director” under the Petroleum Storage Tank Trust Fund Act, are repealed.

<< AR ST § 8–7–902 >>

(7) “Department” means the ~~Arkansas Department~~ of Environmental Quality;

(8) “Director” means the ~~Director of the Arkansas Department~~ of Environmental Quality;

SECTION 2803. Arkansas Code § 8–7–902(15)(B), concerning the definition of “release” under the Petroleum Storage Tank Trust Fund Act, is amended to read as follows:

<< AR ST § 8–7–902 >>

(B) “Release” does not include a release that is permitted or authorized by the ~~department~~ **division** or by federal law;

SECTION 2804. Arkansas Code § 8–7–903(a), concerning the rules, regulations, and powers of the Director of the Department of Finance and Administration, the Arkansas Pollution Control and Ecology Commission, and the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–7–903 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to adopt appropriate rules and regulations not inconsistent with this subchapter as he or she may deem necessary to carry out the intent and purposes of and to assure compliance with this subchapter.

SECTION 2805. Arkansas Code § 8–7–903(c), concerning the rules and regulations and the powers and duties of the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 8–7–903 >>

(c) The ~~Arkansas Department~~ **Division** of Environmental Quality shall have the authority to enter upon the property of any owner or operator of an aboveground storage tank to obtain information, conduct surveys, or review records for the purpose of determining substantial compliance, as defined by this subchapter and regulations promulgated thereunder,

with all state and federal laws and regulations relating to aboveground storage tanks prior to the director's approval of a claim for reimbursement or disbursement.

SECTION 2806. Arkansas Code § 8-7-904(e), concerning the establishment of the Advisory Committee on Petroleum Storage Tanks, is amended to read as follows:

<< AR ST § 8-7-904 >>

(e) The ~~Arkansas Department~~ **Division** of Environmental Quality shall provide adequate staff to support the activities of the committee.

SECTION 2807. Arkansas Code § 8-7-904(g), concerning the establishment of the Advisory Committee on Petroleum Storage Tanks, is amended to read as follows:

<< AR ST § 8-7-904 >>

(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 2808. Arkansas Code § 8-7-904(h), concerning the establishment of the Advisory Committee on Petroleum Storage Tanks, is amended to read as follows:

<< AR ST § 8-7-904 >>

(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 2809. Arkansas Code § 8-7-905(b) and (c), concerning the establishment of the Petroleum Storage Tank Trust Fund, are amended to read as follows:

<< AR ST § 8-7-905 >>

(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 2810. 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:

<< AR ST § 8-7-905 >>

(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;

(5)(A) To reimburse owners and operators in the vicinity of the release for performing short-term testing or monitoring which is in addition to that required by the ~~department's~~ **division's** rules and regulations if the ~~department~~ **division** has a reasonable basis for believing that the petroleum underground storage tank or tanks may be the source of the release.

(B) The owners and operators of petroleum underground storage tanks, including out-of-service and nonoperational petroleum underground storage tanks, not found to be the source of the release and who cooperate with the ~~department~~ **division** may apply to the fund for reimbursement for such testing and monitoring costs, not including lost managerial time or loss of revenues because of temporary business closure; and

SECTION 2811. Arkansas Code § 8-7-905(i)(2), concerning the establishment of the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-905 >>

(2) The procedures of the ~~department~~ **division** and the Arkansas Pollution Control and Ecology Commission for issuance of rules and regulations, conduct of hearings, notice, power of subpoena, right of appeal, presumptions, finality of actions, and related matters shall be as provided in §§ 8-4-202, 8-4-210 — 8-4-214, and 8-4-218 — 8-4-229, and in rules and regulations applicable to administrative procedures of the ~~department~~ **division** and the Arkansas Pollution Control and Ecology Commission to the extent they are not in conflict with the provisions of this subchapter.

SECTION 2812. Arkansas Code § 8-7-907(a)(1), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-907 >>

(a)(1) No payment for corrective action shall be paid from the Petroleum Storage Tank Trust Fund until the owner or operator has expended seven thousand five hundred dollars (\$7,500) on corrective action for the occurrence, except in cases in which the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality is using emergency authority under § 8-7-905(e). It is the intent of the General Assembly that this initial level of expenditure be considered the equivalent of an insurance policy deductible.

SECTION 2813. Arkansas Code § 8-7-907(c)(2) and (3), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, are amended to read as follows:

<< AR ST § 8-7-907 >>

(2) The corrective action expenses submitted for reimbursement consist of items and amounts that are in accord and compliant with ~~Arkansas Department~~ **Division** of Environmental Quality regulations; and

(3) The owner or operator cooperated fully with the ~~department~~ **division** in corrective action to address the release.

SECTION 2814. Arkansas Code § 8-7-907(e)(2)(B), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-907 >>

(B) Specific assurances must be provided that an approved corrective action plan, department **division** directive, or order is being implemented and followed to date; and

SECTION 2815. Arkansas Code § 8-7-907(f), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-907 >>

(f)(1) In the event moneys are expended from the fund for corrective action and the owner or operator was not at the time of the occurrence eligible to receive reimbursement for corrective action, as defined by this subchapter and regulations promulgated under this subchapter, the department **division** may recover from the owner or operator the amount of moneys expended from the fund for corrective action by filing an action in the appropriate circuit court or by using the administrative procedures set forth in § 8-7-804.

(2)(A) The department **division** also has a right of subrogation:

(i) To any insurance policies in existence at the time of the occurrence to the extent of any rights the owner or operator of a site may have had under that policy; and

(ii) Against any third party who caused or contributed to the occurrence.

(B) The right of subrogation shall apply to sites where corrective action is taken by:

(i) Owners or operators; or

(ii) The department **division**.

(C) As used in this subsection, "third party" does not include a former owner or operator of the site where corrective action is taken.

SECTION 2816. Arkansas Code § 8-7-907(g)(2), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-907 >>

(2) Eligibility for reimbursement of unknown petroleum storage tanks will be conditioned on the payment of three hundred seventy-five dollars (\$375) to the department **division**.

SECTION 2817. Arkansas Code § 8-7-907(h), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-907 >>

(h) If the owner or operator is found to have been in noncompliance with any state and federal laws and regulations relating to storage tanks at the time of the occurrence, the ~~department~~ **division** may assess a penalty in accordance with its applicable policies and procedures.

SECTION 2818. Arkansas Code § 8-7-907(i)(1), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-907 >>

(i)(1) An owner or operator determined to be eligible for payment for corrective action for a release from a qualified storage tank or the ~~department~~ **division** may transfer the eligibility to a subsequent owner or operator of the qualified storage tank if the ~~department~~ **division** determines that the subsequent owner or operator has the financial and legal capacity to complete the corrective action and the subsequent owner or operator agrees in writing to assume responsibility for corrective action.

SECTION 2819. Arkansas Code § 8-7-907(j)(2), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-907 >>

(2) If an owner or operator is performing corrective action to the ~~department's~~ **division's** satisfaction, a lender or secured creditor is not eligible to assume responsibility for corrective action or to receive payment for corrective action.

SECTION 2820. Arkansas Code § 8-7-907(k)(2)(D), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-907 >>

(D) Providing for reversion of equipment to the ~~department~~ **division** if the responsibility for the maintenance or payment for the equipment is not met.

SECTION 2821. Arkansas Code § 8-7-908(a)(1)(A), concerning third-party claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-908 >>

(A) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality is using his or her emergency authority under § 8-7-905(e); or

SECTION 2822. Arkansas Code § 8-7-908(d), concerning third-party claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-908 >>

(d)(1)(A) Any owner or operator against whom a third-party claim is filed in court or in the Arkansas State Claims Commission shall give written notice of the claim to the ~~Arkansas Department~~ **Division** of Environmental Quality no

later than twenty (20) days after service of summons or receipt of notification of the claim from the Arkansas State Claims Commission.

(B) As a condition of eligibility, an owner or operator shall cooperate with and assist the department **division** and, if applicable, the Attorney General's office in connection with the third-party claim.

(C) At a minimum, the cooperation shall include active participation by the owner or operator throughout the litigation and providing assistance as required by the department **division** or the Attorney General's office during resolution of a third-party claim.

(D) In determining compliance with subdivisions (d)(1)(B) and (C) of this section, the director shall consider the owner's or operator's financial condition.

(2) Upon receipt of the notice, the department **division** shall immediately notify the Attorney General, who shall have the right to intervene in any such lawsuit or proceeding in order to protect the interests of the state in the fund.

(3) Payment of third-party claims from the fund may be denied for any owner or operator who fails to give the department **division** notice as required in this subsection.

SECTION 2823. Arkansas Code § 8-7-908(f), concerning third-party claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-908 >>

(f)(1) In the event moneys are expended from the fund for third-party claims and the owner or operator was not at the time of the occurrence in substantial compliance, as defined by this subchapter and regulations promulgated under this subchapter, the department **division** may recover from the owner or operator the amount of moneys expended from the fund for the third-party claim by filing an action in the appropriate circuit court or by using the administrative procedures set forth in § 8-7-804.

(2)(A) The department **division** also has a right of subrogation:

(i) To any insurance policies in existence at the time of the occurrence to the extent of any rights the owner or operator of a site may have had under that insurance policy; and

(ii) Against any third party who caused or contributed to the occurrence.

(B) The right of subrogation shall apply to sites where corrective action is taken by:

(i) Owners or operators; or

(ii) The department **division**.

(C) As used in this subsection, "third party" does not include a former owner or operator of the site where corrective action is taken.

SECTION 2824. Arkansas Code § 8-7-908(g)(2), concerning third-party claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-908 >>

(2) Eligibility for reimbursement of unknown petroleum storage tanks will be conditioned on the payment of three hundred seventy-five dollars (\$375) to the ~~department~~ **division**.

SECTION 2825. Arkansas Code § 8-7-908(h)(1), concerning third-party claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 8-7-908 >>

(h)(1) An owner or operator determined to be eligible for payment for third-party claims for a release may transfer the eligibility to an owner or operator that acquires the storage tank if the ~~department~~ **division** determines that the subsequent owner or operator has the financial and legal capacity and has assumed in writing the responsibility for third-party liability.

SECTION 2826. Arkansas Code § 8-7-909 is amended to read as follows:

<< AR ST § 8-7-909 >>

8-7-909. Confidential treatment of information.

(a) Any records, reports, or information obtained by the ~~Arkansas Department~~ **Division** of Environmental Quality, **the Department of Energy and Environment**, or the ~~division's or~~ department's employees in the administration of this subchapter, except release data, shall be kept confidential upon a showing satisfactory to the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality that the records, reports, or information would constitute a trade secret under § 4-75-601 et seq.

(b) As necessary to carry out the provisions of this subchapter, information afforded confidential treatment may be transmitted under a continuing claim of confidentiality to other officers or employees of the state or of the United States if the owner or operator of the facility to which the information pertains is informed of the transmittal and if the information has been acquired by the ~~department~~ **division** under the provisions of this subchapter.

(c) The provisions of this section shall not be construed to limit the ~~department's~~ **division's** authority to release confidential information during emergency situations.

(d) Any violation of this section shall be unlawful and shall constitute a misdemeanor.

SECTION 2827. Arkansas Code § 8-7-1101(4) and (5), concerning the declaration of policy by the General Assembly for the redevelopment of abandoned industrial, commercial, or agricultural sites or abandoned residential property, are amended to read as follows:

<< AR ST § 8-7-1101 >>

(4) Incentives should be put in place to encourage prospective purchasers to voluntarily develop and implement cleanup plans of abandoned sites without the need for adversarial enforcement actions by the ~~Arkansas Department~~ **Division** of Environmental Quality;

(5) The ~~department~~ **division** now routinely determines, through its permitting policies, when contamination will and will not pose unacceptable risks to public health or the environment, and similar concepts are used in establishing cleanup policies for abandoned sites;

SECTION 2828. Arkansas Code § 8-7-1102(a)(1), concerning the definition of “abandoned site” under the laws about the voluntary cleanup of hazardous waste, is amended to read as follows:

<< AR ST § 8-7-1102 >>

(1) “Abandoned site” means a site on which industrial, commercial, or agricultural activity occurred and for which no responsible person can reasonably be pursued for a remedial response to clean up the site or residential property or when the ~~Arkansas Department~~ **Division** of Environmental Quality determines it is in the best interest of the citizens of Arkansas to promote redevelopment under this subchapter while continuing to pursue the responsible party or parties;

SECTION 2829. Arkansas Code § 8-7-1102(a)(2), concerning the definition of “implementing agreement” under the laws about the voluntary cleanup of hazardous waste, is amended to read as follows:

<< AR ST § 8-7-1102 >>

(2) “Implementing agreement” means a plan, order, memorandum of agreement, or other enforceable document issued by the ~~department~~ **division** under provisions of the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., the Remedial Action Trust Fund Act, § 8-7-501 et seq., or this subchapter, to implement the voluntary cleanup process described in § 8-7-1104;

SECTION 2830. The introductory language of Arkansas Code § 8-7-1103(a), concerning the authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-1103 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality shall have authority regarding a voluntary response program to provide the following:

SECTION 2831. Arkansas Code § 8-7-1103(a)(6), concerning the authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-1103 >>

(6)(A) A requirement for certification or similar documentation from the ~~department~~ **division** to the person conducting the voluntary response action indicating that the response is complete.

(B) This certification shall document any conditions, restrictions, or limitations on the release from liability for contamination existing at the site before the ~~department~~ **division** and the prospective purchaser enter into an implementing agreement.

SECTION 2832. Arkansas Code § 8-7-1103(b), concerning the authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-1103 >>

(b) The ~~department~~ **division** may establish and administer a revolving loan fund to make secured and unsecured loans or grants to eligible participants for the purpose of financing the assessment, investigation, or remedial actions at abandoned industrial, commercial, or agricultural sites, or at abandoned residential property.

SECTION 2833. Arkansas Code § 8-7-1104(c), concerning the voluntary cleanup process, is amended to read as follows:

<< AR ST § 8-7-1104 >>

(c) Following completion of a comprehensive site assessment, the ~~Arkansas Department~~ **Division** of Environmental Quality shall determine whether the site assessment adequately identifies the environmental risks posed by the abandoned site.

SECTION 2834. Arkansas Code § 8-7-1104(d)(4), concerning the voluntary cleanup process, is amended to read as follows:

<< AR ST § 8-7-1104 >>

(4) The notice shall be subject to the approval of the ~~department~~ **division**.

SECTION 2835. Arkansas Code § 8-7-1104(f)(1)(B), concerning the voluntary cleanup process, is amended to read as follows:

<< AR ST § 8-7-1104 >>

(B) A purchaser may not actually use the property in a manner which differs from the intended use identified in the implementing agreement contemplated by subsection (d) of this section, unless the ~~department~~ **division** and purchaser agree to a modification of the implementing agreement; or

SECTION 2836. Arkansas Code § 8-7-1104(h)(1), concerning the voluntary cleanup process, is amended to read as follows:

<< AR ST § 8-7-1104 >>

(h)(1) The selection of remedial action shall be approved by the ~~department~~ **division** after reasonable notice and after opportunity for hearing and shall become an amendment to the implementing agreement entered into pursuant to subsection (d) of this section.

SECTION 2837. Arkansas Code § 8-7-1104(j), concerning the voluntary cleanup process, is amended to read as follows:

<< AR ST § 8-7-1104 >>

(j) A prospective purchaser of an abandoned site under this subchapter shall not be responsible for paying any fines or penalties levied against any person responsible for contamination on the abandoned site prior to the implementing agreement with the ~~department~~ **division**.

SECTION 2838. Arkansas Code § 8-7-1104(m), concerning the voluntary cleanup process, is amended to read as follows:

<< AR ST § 8-7-1104 >>

(m) Upon written notice to the ~~department~~ **division**, the implementing agreement, including all rights and cleanup liabilities entered into by the ~~department~~ **division** and the prospective purchaser under subsection (d) of this section, is transferable in its entirety to all subsequent owners of the property who did not, by act or omission, cause or contribute to any release or threatened release of hazardous substances on the abandoned site.

SECTION 2839. Arkansas Code § 8-7-1302 is amended to read as follows:

<< AR ST § 8-7-1302 >>

8-7-1302. Purpose.

It is the purpose of this subchapter to authorize the ~~Arkansas Department~~ **Division** of Environmental Quality to establish and administer a certification program to maintain a list of Phase I consultants who meet the minimum qualifications for an environmental professional who undertakes a Phase I environmental site assessment, referred to as “all appropriate inquiry” under the Small Business Liability Relief and Brownfields Revitalization Act, Pub. L. No. 107-118, as it exists on January 1, 2007, or a Phase I environmental site assessment under the American Society for Testing and Materials standard E1527-05 as in effect on January 1, 2007.

SECTION 2840. Arkansas Code § 8-7-1311(a)(1), concerning fees paid to the Hazardous Waste Permit Fund of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 8-7-1311 >>

(a)(1) Under regulations promulgated by the Arkansas Pollution Control and Ecology Commission, the ~~Arkansas Department~~ **Division** of Environmental Quality may assess fees to Phase I consultants who apply to be placed on the list maintained under § 8-7-1304.

SECTION 2841. The introductory language of Arkansas Code § 8-7-1402(a), concerning professional cleanup of properties contaminated through the manufacture of controlled substances, is amended to read as follows:

<< AR ST § 8-7-1402 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality shall:

SECTION 2842. Arkansas Code § 8-7-1402(a)(4)(A) and (B), concerning professional cleanup of properties contaminated through the manufacture of controlled substances, are amended to read as follows:

<< AR ST § 8-7-1402 >>

(A) On the ~~department's~~ **division's** website; and

(B) In hard copy upon request to the ~~department~~ **division**; and

SECTION 2843. Arkansas Code § 8-7-1403(b), concerning the reporting of properties contaminated through the manufacture of controlled substances, is amended to read as follows:

<< AR ST § 8-7-1403 >>

(b)(1) If a property owner finds or becomes aware of evidence of a laboratory for the manufacture of controlled substances on his or her property, the property owner shall have the property inspected in accordance with the guidelines established by the ~~Arkansas Department~~ **Division** of Environmental Quality under this subchapter by a contractor certified by the ~~department~~ **division** under § 8-7-1402.

(2) If the contractor selected by the property owner under subdivision (b)(1) of this section verifies that a laboratory for the manufacture of controlled substances has been on the property, the contractor shall notify the ~~department~~ **division**, and the ~~department~~ **division** shall place the property on the contaminated properties list required under § 8-7-1404.

SECTION 2844. Arkansas Code § 8-7-1404(a), concerning the required recordkeeping by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-1404 >>

(a) ~~By May 1, 2008, the Arkansas Department~~ **The Division** of Environmental Quality shall maintain records concerning properties contaminated through the manufacture of controlled substances.

SECTION 2845. The introductory language of the Arkansas Code § 8-7-1404(b), concerning the required recordkeeping by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-1404 >>

(b) The ~~department~~ **division** shall:

SECTION 2846. Arkansas Code § 8-7-1404(b)(3)(B), concerning the required recordkeeping by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8-7-1404 >>

(B) The property has met the remediation standards developed by the ~~department~~ **division**;

SECTION 2847. Arkansas Code § 8-7-1404(b)(4) and (5), concerning the required recordkeeping by the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 8-7-1404 >>

(4)(A) Post the results of a cleanup on the ~~department's~~ **division's** website for ten (10) working days after the ~~department~~ **division** determines that the property has been adequately remediated.

(B) After the ten (10) working days of posting required under subdivision (b)(4)(A) of this section, the ~~department~~ **division** shall remove from the ~~department's~~ **division's** website the formerly contaminated property and the results of the cleanup; and

(5) Remove a property from the list when the ~~department~~ **division** finds that the property has been adequately remediated.

SECTION 2848. Arkansas Code § 8-7-1404(c), concerning the required recordkeeping by the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 8-7-1404 >>

(c)(1) The ~~department~~ **division** shall make the list of properties contaminated through the manufacture of controlled substances available to law enforcement officials and to the public:

(A) On the ~~department's~~ **division's** website; and

(B) In hard copy upon request to the ~~department~~ **division**.

(2) The ~~department~~ **division** shall keep hard copies of the information required under this section until the ~~department~~ **division** has removed the property from the list of properties contaminated through the manufacture of controlled substances.

SECTION 2849. Arkansas Code § 8-7-1405(b)(3), concerning the notice of cleanup and residual contamination, is amended to read as follows:

<< AR ST § 8-7-1405 >>

(3) The ~~Arkansas Department~~ **Division** of Environmental Quality shall cooperate with the Arkansas Crime Information Center to create a computer link that will allow the center to transfer to the ~~department~~ **division** information from the National Clandestine Laboratory Seizure Report required under 28 C.F.R. Part 23 that is relevant to the notice of removal required under subsection (d) of this section.

SECTION 2850. Arkansas Code § 8-7-1405(d)(7)(D)(i), concerning the notice of cleanup and residual contamination, is amended to read as follows:

<< AR ST § 8-7-1405 >>

(D)(i) It is unlawful for any unauthorized person to enter a residually contaminated property or, in the case of a space-rental mobile home or recreational vehicle park, the unit located on the property until the ~~department~~ **division** establishes that the portion of the property identified as residually contaminated has been properly remediated.

SECTION 2851. Arkansas Code § 8-7-1405(d)(7)(D)(ii)(a), concerning the notice of cleanup and residual contamination, is amended to read as follows:

<< AR ST § 8-7-1405 >>

(a) An employee of the ~~department~~ **division**;

SECTION 2852. Arkansas Code § 8-7-1405(d)(7)(E)-(G), concerning the notice of cleanup and residual contamination, are amended to read as follows:

<< AR ST § 8-7-1405 >>

(E) Failure to comply with this section is a violation of the department's **division's** rules pertaining to the cleanup of laboratories for the manufacture of controlled substances;

(F) Disturbing the notice of removal posted on the property is a violation of the department's **division's** rules concerning the cleanup of laboratories for the manufacture of controlled substances; and

(G) The owner of the property is responsible for remediating the residually contaminated portion of the property in compliance with the department's **division's** rules concerning the cleanup of laboratories for the manufacture of controlled substances.

SECTION 2853. Arkansas Code § 8-7-1406 is amended to read as follows:

<< AR ST § 8-7-1406 >>

8-7-1406. Remediated property.

(a) After property contaminated through the manufacture of controlled substances is remediated and the property owner receives official notification from the ~~Arkansas Department~~ **Division** of Environmental Quality, no person, including the property owner, landlord, and real estate agent, is required to report or otherwise disclose the past contamination.

(b) Unless retention is mandated by federal law, the department **division** shall destroy all copies of information required to be kept under this subchapter that refer to a specific property location once the property is officially removed from the contaminated properties list.

SECTION 2854. Arkansas Code § 8-9-101 is amended to read as follows:

<< AR ST § 8-9-101 >>

8-9-101. Policy.

It is the policy of the State of Arkansas to encourage and promote recycling in order to conserve natural resources, conserve energy, and preserve landfill space. In furtherance of this policy, the State of Arkansas adopts as a goal in the new century the recycling of forty percent (40%) of its municipal solid waste by 2005 and forty-five percent (45%) of its municipal solid waste by 2010, as shall be determined by the Arkansas Department of Environmental Quality **or the Division of Environmental Quality** by regulation.

SECTION 2855. Arkansas Code § 8-9-104(2), concerning the definition of “department” under the laws governing recycling, is repealed.

<< AR ST § 8-9-104 >>

(2) “Department” means the ~~Arkansas Department~~ of Environmental Quality;

SECTION 2856. Arkansas Code § 8–9–104(3)(A), concerning the definition of “materials in the recycling process” under the laws governing recycling, is amended to read as follows:

<< AR ST § 8–9–104 >>

(A) Those materials are processed or handled using reasonably available processing equipment and control technology, as determined by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, taking cost into account; and

SECTION 2857. Arkansas Code § 8–9–202 is amended to read as follows:

<< AR ST § 8–9–202 >>

8–9–202. Powers and duties of the department ~~department~~ **division.**

The ~~Arkansas Department~~ **Division** of Environmental Quality shall have the power and duty to:

- (1) Adopt reasonable rules and regulations to effectuate the purposes of this subchapter;
- (2) Promote public education and public awareness of the necessity of supporting waste reduction and recyclable material recovery as an integral part of all solid waste and recyclable materials programs in the state; and
- (3) Provide, to the extent practicable, upon request, to state agencies, planning and technical assistance in carrying out their responsibilities under this subchapter.

SECTION 2858. The introductory language of Arkansas Code § 8–9–203(a), concerning recycling by governmental entities, is amended to read as follows:

<< AR ST § 8–9–203 >>

(a) Each state agency, state college or university, county, city, and public school, in cooperation with the ~~Arkansas Department~~ **Division** of Environmental Quality and the Compliance Advisory Panel shall:

SECTION 2859. Arkansas Code § 8–9–302(b), concerning plastic container labeling, is amended to read as follows:

<< AR ST § 8–9–302 >>

(b) The ~~Arkansas Department~~ **Division** of Environmental Quality shall maintain a list of the label codes provided pursuant to this section and shall provide a copy of that list to any person upon request.

SECTION 2860. Arkansas Code § 8–9–303(c) and (d), concerning lead-acid batteries, are amended to read as follows:

<< AR ST § 8–9–303 >>

(c) The ~~Arkansas Department~~ **Division** of Environmental Quality shall produce, print, and distribute the notices required by this section to all places where lead-acid batteries are offered for sale at retail.

(d) In performing its duties under this section, the ~~department~~ **division** may inspect any place, building, or premises governed by this section.

SECTION 2861. Arkansas Code § 8–9–401(b)(2), concerning title, legislative intent, and findings under the Used Tire Recycling and Accountability Act, is amended to read as follows:

<< AR ST § 8–9–401 >>

(2) Provide accountability and sustainability for used tire programs by requiring use of the electronic uniform used tire manifest system developed by the ~~Arkansas Department~~ **Division** of Environmental Quality and business plans for used tire programs;

SECTION 2862. The introductory language of Arkansas Code § 8–9–402(3), concerning the definition of “electronic uniform used tire manifest system” under the Used Tire Recycling and Accountability Act, is amended to read as follows:

<< AR ST § 8–9–402 >>

(3) “Electronic uniform used tire manifest system” means an administrative method developed by the ~~Arkansas Department~~ **Division** of Environmental Quality that:

SECTION 2863. Arkansas Code § 8–9–402(9), concerning the definition of “qualified entity” under the Used Tire Recycling and Accountability Act, is amended to read as follows:

<< AR ST § 8–9–402 >>

(9) “Qualified entity” means an entity that demonstrates to the ~~department~~ **division** that the entity has the capability, experience, and resources to operate and administer a used tire program in compliance with this subchapter;

SECTION 2864. Arkansas Code § 8–9–402(25)(B)(ii), concerning the definition of “qualified entity” under the Used Tire Recycling and Accountability Act, is amended to read as follows:

<< AR ST § 8–9–402 >>

(ii) A location that is authorized to store tires by the ~~department~~ **division** or regulations promulgated by the Arkansas Pollution Control and Ecology Commission;

SECTION 2865. The introductory language of Arkansas Code § 8–9–403(a)(1), concerning requirements, prohibited activities, and operation of waste tire sites, is amended to read as follows:

<< AR ST § 8–9–403 >>

(a)(1) The owner or operator of any waste tire site shall provide the ~~Arkansas Department~~ **Division** of Environmental Quality and the applicable regional solid waste management district with:

SECTION 2866. Arkansas Code § 8–9–403(a)(1)(B), concerning requirements, prohibited activities, and operation of waste tire sites, is amended to read as follows:

<< AR ST § 8–9–403 >>

(B) A written plan specifying a method and time schedule, subject to approval by the ~~department~~ **division**, for the removal, disposal, or recycling of the tires.

SECTION 2867. Arkansas Code § 8–9–403(a)(2), concerning requirements, prohibited activities, and operation of waste tire sites, is amended to read as follows:

<< AR ST § 8–9–403 >>

(2) The owner or operator shall implement a written plan approved by the ~~department~~ **division** according to the written plan's schedule.

SECTION 2868. Arkansas Code § 8–9–403(c)(3)(C)(i), concerning requirements, prohibited activities, and operation of waste tire sites, is amended to read as follows:

<< AR ST § 8–9–403 >>

(i) Authorized by the ~~department~~ **division**;

SECTION 2869. Arkansas Code § 8–9–403(e)(2), concerning requirements, prohibited activities, and operation of waste tire sites, is amended to read as follows:

<< AR ST § 8–9–403 >>

(2) Records of the disposition of the waste tires originating from a tire manufacturer shall be maintained by that tire manufacturer for a period of at least three (3) years and shall be available for review by the ~~department~~ **division**.

SECTION 2870. Arkansas Code § 8–9–404(a)(5)(A), concerning rim removal fees, is amended to read as follows:

<< AR ST § 8–9–404 >>

(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 2871. Arkansas Code § 8–9–404(a)(6), concerning rim removal fees, is amended to read as follows:

<< AR ST § 8–9–404 >>

(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 2872. Arkansas Code § 8-9-404(b)(1)(B), concerning rim removal fees, import fees, and commercial generator fees, is amended to read as follows:

<< AR ST § 8-9-404 >>

(B) Seven percent (7%) to be deposited into the ~~Arkansas Department~~ **Division** of Environmental Quality Fee Trust Fund.

SECTION 2873. 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:

<< AR ST § 8-9-404 >>

(ii) Seven percent (7%) to be deposited into the ~~Arkansas Department~~ **Division** of Environmental Quality Fee Trust Fund.

SECTION 2874. Arkansas Code § 8-9-404(d)(5)(A), concerning commercial generator fees, is amended to read as follows:

<< AR ST § 8-9-404 >>

(5)(A) The commercial generator fees imposed under this section shall be paid monthly to the ~~director~~ **secretary**.

SECTION 2875. Arkansas Code § 8-9-404(d)(6)(A), concerning commercial generator fees, is amended to read as follows:

<< AR ST § 8-9-404 >>

(6)(A) The commercial generator fees remitted in subdivision (d)(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)(a) Each commercial generator shall file a return with the ~~director~~ **secretary** on or before the twentieth of each month.
- (b) The return shall show the total commercial generator fees collected for each tire sold or delivered to the end user during the preceding calendar month.
- (c) The commercial generator shall remit the commercial generator fees with the return.

(ii) The ~~director~~ **secretary** shall prescribe the form and contents of the return.

SECTION 2876. Arkansas Code § 8-9-404(d)(7)(B), concerning rim removal fees, import fees, and commercial generator fees, is amended to read as follows:

<< AR ST § 8-9-404 >>

(B) Seven percent (7%) to be deposited into the ~~Arkansas Department~~ **Division** of Environmental Quality Fee Trust Fund.

SECTION 2877. The introductory language of Arkansas Code § 8-9-405(a), concerning used tire program reimbursements, is amended to read as follows:

<< AR ST § 8-9-405 >>

(a) ~~By January 1, 2018, the Arkansas Department~~ **The Division** of Environmental Quality shall establish the Used Tire Recycling and Accountability Program to:

SECTION 2878. Arkansas Code § 8-9-405(b)(7) and (8), concerning used tire program reimbursements, are amended to read as follows:

<< AR ST § 8-9-405 >>

(7) Provide the ~~department~~ **division** with business plan information required under § 8-9-408;

(8) Provide the ~~department~~ **division** with all quarterly financial information and progress reports related to § 8-9-409;

SECTION 2879. Arkansas Code § 8-9-405(c)(1), concerning used tire program reimbursements, is amended to read as follows:

<< AR ST § 8-9-405 >>

(1) Contract with a tire processing facility that is approved by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality;

SECTION 2880. The introductory language of Arkansas Code § 8-9-405(d), concerning used tire program reimbursements, is amended to read as follows:

<< AR ST § 8-9-405 >>

(d) Moneys disbursed from the Used Tire Recycling Fund by the ~~department~~ **division** for reimbursements under this section shall be:

SECTION 2881. Arkansas Code § 8–9–405(e)(2), concerning used tire program reimbursements, is amended to read as follows:

<< AR ST § 8–9–405 >>

(2) If there are insufficient moneys available in a quarter to make reimbursements for all submitted requests under any funding level under subsection (f) of this section, the ~~department~~ **division** shall calculate the total remaining funding available for the funding level and allocate the moneys available for reimbursement to each used tire program based on a pro rata share of each used tire program's reimbursement request compared to the total moneys available for that funding level.

SECTION 2882. Arkansas Code § 8–9–405(g), concerning used tire program reimbursements, is amended to read as follows:

<< AR ST § 8–9–405 >>

(g) At the request of a used tire program that needs operational assistance or guidance on compliance with this subchapter, the ~~department~~ **division** shall provide to the used tire program operational assistance or guidance on compliance with this subchapter.

SECTION 2883. The introductory language of Arkansas Code § 8–9–405(h), concerning used tire program reimbursements, is amended to read as follows:

<< AR ST § 8–9–405 >>

(h) The ~~department~~ **division** shall:

SECTION 2884. Arkansas Code § 8–9–408(a), concerning accountability requirements for used tire programs, is amended to read as follows:

<< AR ST § 8–9–408 >>

(a) On or before December 31, 2017, a used tire program that receives funding under this subchapter shall provide the Arkansas Department of Environmental Quality, **now the Division of Environmental Quality**, with a business plan that establishes its current operating plan and a proposed operating plan for calendar year 2018 and approved by its board.

SECTION 2885. Arkansas Code § 8–9–408(c)–(e), concerning accountability requirements for used tire programs, are amended to read as follows:

<< AR ST § 8–9–408 >>

(c) A used tire program shall submit a revised business plan if there is a substantial change in the used tire program operations or if the ~~department~~ **division** requests a revised business plan.

(d) A business plan or revised business plan submitted under this subchapter is effective after approval by the ~~department~~ **division** or its designee.

(e)(1) The approved business plan or approved revised business plan shall include the approved business plan rates for each used tire program.

(2)(A) The ~~department~~ **division** shall cooperate with the used tire programs and other entities to develop each used tire program's approved business plan rates for recyclable tires and waste tires.

(B) The approved business plan rates shall also use the size of a tire, including without limitation small tires, large tires, and extra-large tires, as a factor for determining the approved business plan rates.

SECTION 2886. Arkansas Code § 8-9-409(a), concerning the performance and efficiency evaluations for the used tire programs and the Used Tire Recycling and Accountability Program, is amended to read as follows:

<< AR ST § 8-9-409 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality shall develop a system to evaluate and report the performance and efficiency of used tire programs and the Used Tire Recycling and Accountability Program.

SECTION 2887. Arkansas Code § 8-9-411(a)(2), concerning tire transporters' licenses, is amended to read as follows:

<< AR ST § 8-9-411 >>

(2) Obtain for each vehicle a tire transporter number provided by the ~~Arkansas Department~~ **Division** of Environmental Quality used for the electronic uniform used tire manifest system;

SECTION 2888. Arkansas Code § 8-9-411(b), concerning tire transporters' licenses, is amended to read as follows:

<< AR ST § 8-9-411 >>

(b) For each tire transporter licensed under this section, the ~~department~~ **division** shall assign a tire transporter number and include the tire transporter information in the electronic uniform used tire manifest system.

SECTION 2889. Arkansas Code § 8-9-415(b)(6), concerning permitting, licensing, inspections, procedures, enforcement, and penalties for a person who receives funding regarding tire collection and disposal, is amended to read as follows:

<< AR ST § 8-9-415 >>

(6) Failure to provide documentation or reports required to be filed with the ~~Arkansas Department~~ **Division** of Environmental Quality under this subchapter.

SECTION 2890. The introductory language of Arkansas Code § 8-9-415(c)(1), concerning permitting, licensing, inspections, procedures, enforcement, and penalties for a person who receives funding regarding tire collection and disposal, is amended to read as follows:

<< AR ST § 8-9-415 >>

(c)(1) If a used tire program fails to submit a business plan that is approved by the ~~department~~ **Arkansas Department of Environmental Quality or the Division of Environmental Quality** on or before July 1, 2018, the used tire program and all regional solid waste management boards included in the used tire program on July 1, 2018, are:

SECTION 2891. Arkansas Code § 8–9–415(c)(2)(A), concerning permitting, licensing, inspections, procedures, enforcement, and penalties for a person who receives funding regarding tire collection and disposal, is amended to read as follows:

<< AR ST § 8–9–415 >>

(2)(A) The ~~department~~ **division** may designate a qualified entity to perform the duties related to the operation and administration of a used tire program deemed ineligible under subdivision (c)(1) of this section.

SECTION 2892. Arkansas Code § 8–9–502, concerning members of the Arkansas Newspaper Recycling Advisory Committee, is amended to read as follows:

<< AR ST § 8–9–502 >>

8–9–502. Members.

The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality shall appoint the Arkansas Newspaper Recycling Advisory Committee consisting of:

(1) The Chief of the Marketing Division of the ~~Arkansas Department~~ **Division** of Environmental Quality or his or her designee;

(2) The Executive Director of the Arkansas Press Association, Inc. or his or her designee; and

(3)(A) At least six (6) members representing the Arkansas newspaper industry and newsprint manufacturers doing business in Arkansas.

(B) Provided, however, these members shall be selected from a list of names of potential members to be provided by the President of the Board of Directors of the Arkansas Press Association, Inc.

SECTION 2993. Arkansas Code § 8–9–603(2) and (3), concerning the definitions of “department” and “director” under the Mercury Switch Removal Act of 2005, are repealed.

<< AR ST § 8–9–603 >>

(2) “Department” means the ~~Arkansas Department~~ of Environmental Quality;

(3) “Director” means the ~~Director of the Arkansas Department~~ of Environmental Quality;

SECTION 2994. Arkansas Code § 8–9–604(a), concerning the mercury minimization plan, is amended to read as follows:

<< AR ST § 8–9–604 >>

(a) Within ninety (90) days after August 12, 2005, every manufacturer of vehicles sold within this state, individually or as part of a group, shall develop in consultation with the Arkansas Department of Environmental Quality, **now the Division of Environmental Quality**, a mercury minimization plan prepared pursuant to this section and shall submit the mercury minimization plan to the Director of the Arkansas Department of Environmental Quality, **now the Director of the Division of Environmental Quality**, for review and approval pursuant to § 8–9–605.

SECTION 2995. Arkansas Code § 8–9–605(a)(1), concerning approval and implementation of the mercury minimization plan, is amended to read as follows:

<< AR ST § 8–9–605 >>

(a)(1) Within one hundred twenty (120) days after receipt of a mercury minimization plan, the Director of the Arkansas Department of Environmental Quality, **now the Director of the Division of Environmental Quality**, shall approve, disapprove, or conditionally approve the entire mercury minimization plan. The director may solicit input from representatives of vehicle recyclers, scrap recycling facilities, and other stakeholders as the director deems appropriate.

SECTION 2996. Arkansas Code § 8–9–606(c)(2), concerning the removal and proper management of mercury-added vehicle components, is amended to read as follows:

<< AR ST § 8–9–606 >>

(2) These records shall be made available for review by the ~~Arkansas Department~~ **Division** of Environmental Quality upon the request of the ~~department~~ **division**.

SECTION 2997. Arkansas Code § 8–9–606(e)(2), concerning the removal and proper management of mercury-added vehicle components, is amended to read as follows:

<< AR ST § 8–9–606 >>

(2) Provisions of the rules and regulations concerning universal waste adopted by the ~~department~~ **division** pursuant to the Arkansas Hazardous Waste Management Act of 1979, § 8–7–201 et seq.

SECTION 2998. The introductory language of Arkansas Code § 8–9–607(a), concerning annual reporting on a mercury minimization plan, is amended to read as follows:

<< AR ST § 8–9–607 >>

(a) One (1) year after the implementation of a mercury minimization plan approved pursuant to § 8–9–605, and annually thereafter, a manufacturer subject to § 8–9–604 shall report individually or as part of a group to the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality concerning the implementation of the mercury minimization plan. The report shall include, but need not be limited to, the following:

SECTION 2999. The introductory language of Arkansas Code § 8–9–608(a), concerning design for recycling regarding the mercury minimization plan, is amended to read as follows:

<< AR ST § 8–9–608 >>

(a) One (1) year after the implementation of a mercury minimization plan approved pursuant to § 8–9–605, and annually thereafter, a manufacturer subject to § 8–9–604 shall report individually or as part of a group to the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality concerning the steps being taken by manufacturers to design vehicles and their components for recycling. The report shall include, but need not be limited to, the following:

SECTION 3000. Arkansas Code § 8–9–608(b), concerning design for recycling regarding the mercury minimization plan, is amended to read as follows:

<< AR ST § 8–9–608 >>

(b) The ~~Arkansas Department~~ **Division** of Environmental Quality may conduct hearings from time to time as the director deems appropriate to evaluate the steps manufacturers are taking to design for recycling and to recommend additional legislative action as may be appropriate in order to promote vehicle recycling for the purposes of the preservation of scarce resources and the safe and efficient reduction of solid waste.

SECTION 3001. Arkansas Code § 8–9–609 is amended to read as follows:

<< AR ST § 8–9–609 >>

8–9–609. Rules and regulations — Authority of Arkansas Pollution Control and Ecology Commission.

The Arkansas Pollution Control and Ecology Commission may adopt rules and regulations to effectuate and implement the purposes and intent of this subchapter and the powers and duties of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3002. Arkansas Code § 8–10–302(a)(2)(C)(iii), concerning the construction of a motor vehicle racing facility and the requirement of a petition, is amended to read as follows:

<< AR ST § 8–10–302 >>

(iii) It shall be the duty of the county clerk or city clerk, as the case may be, to determine the sufficiency of the signatures and to certify the sufficiency or insufficiency of the signatures in writing to the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3003. Arkansas Code § 8–10–303(a)(1)(A), concerning a permit requirement to construct a motor vehicle racing facility, is amended to read as follows:

<< AR ST § 8–10–303 >>

(a)(1)(A) Due to the noise pollution and air pollution from the racing vehicles and traffic congestion caused by motor vehicle racing facilities, no motor vehicle racing facility shall be constructed in this state after passage of this section without the consent of at least seventy-five percent (75%) of the property owners and seventy-five percent (75%) of the registered voters within three (3) miles of the outside boundary of the proposed motor vehicle racing facility and without an annual permit issued by the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3004. Arkansas Code § 8–10–303(a)(2)(C)(iii), concerning a permit requirement to construct a motor vehicle racing facility, is amended to read as follows:

<< AR ST § 8–10–303 >>

(iii) It shall be the duty of the county clerk or city clerk, as the case may be, to determine the sufficiency of the signatures and to certify the sufficiency or insufficiency of the signatures in writing to the ~~department~~ **division**.

SECTION 3005. Arkansas Code § 8–10–303(a)(3)(A)(i), concerning a permit requirement to construct a motor vehicle racing facility, is amended to read as follows:

<< AR ST § 8–10–303 >>

(3)(A)(i) Once the sufficiency of the petitions is determined, the persons or entity proposing and constructing a motor vehicle racing facility after August 1, 1997, shall seek the approval of and issuance of an annual permit from the department **division**. The department's **division's** approval shall be sought by filing a permit application with the department **division**.

SECTION 3006. Arkansas Code § 8–10–303(a)(3)(A)(ii)(e), concerning a permit requirement to construct a motor vehicle racing facility, is amended to read as follows:

<< AR ST § 8–10–303 >>

(e) Any other relevant permit information as may be determined necessary for the permit application by the department **division**.

SECTION 3007. Arkansas Code § 8–10–303(a)(3)(B)–(D), concerning a permit requirement to construct a motor vehicle racing facility, are amended to read as follows:

<< AR ST § 8–10–303 >>

(B) For the initial permit application for new motor vehicle racing facilities to be constructed, the department **division** shall conduct a public hearing on the proposed motor vehicle racing facility. The department **division** shall set a date for the public hearing to be held on the proposed motor vehicle racing facility permit which shall not be less than thirty (30) days after the filing of the initial permit application. The hearing under this subdivision (a)(3) (B) for the initial permit may be adjourned and continued if necessary. In its discretion, the department **division** may hold public hearings for the renewal of any permits as is necessary. Any interested persons may appear and contest the granting of the approval or renewal of the motor vehicle racing facility permit. Affidavits in support of or against the proposed motor vehicle racing facility or a permit renewal, which may be prepared and submitted, shall be examined by the department **division**.

(C) After the hearing for the initial permit or upon application for the renewal of its annual permit, if the department **division** shall be satisfied that the benefits of the motor vehicle racing facility are sustained by proof and outweigh its impact by the noise, air pollution, and traffic congestion caused by motor vehicle racing facilities, then the department **division** shall grant the initial permit approving the proposed motor vehicle racing facility or shall renew approval to the permitted or existing motor vehicle racing facility. Renewal of an annual permit may also be denied if:

(i) The motor vehicle racing facility is determined to be in violation of any standards under which the permit was issued;

(ii) The motor vehicle racing facility is constructed or is being operated in a manner that is materially different than was represented during the petition process; or

(iii) Fraud, misrepresentation, or false statement of facts was used to obtain signatures for the petition process.

(D) If any material changes, additions, or improvements are made to the motor vehicle racing facility, the permit shall be amended accordingly, and the ~~department~~ **division** may reconsider the approval of the permit.

SECTION 3008. Arkansas Code § 8–10–304(b)(1)(A), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

<< AR ST § 8–10–304 >>

(b)(1)(A) A person or entity proposing and constructing a motor vehicle racing facility under subsection (a) of this section shall seek the approval of and issuance of an annual permit from the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3009. The introductory language of Arkansas Code § 8–10–304(b)(1)(B), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

<< AR ST § 8–10–304 >>

(B) The ~~department's~~ **division's** approval shall be sought by filing a permit application with the ~~department~~ **division**, which shall contain a written proposal for the motor vehicle racing facility containing the substance of the proposed facility, including:

SECTION 3010. Arkansas Code § 8–10–304(b)(1)(B)(v), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

<< AR ST § 8–10–304 >>

(v) Any other relevant permit information as may be determined necessary for the permit application by the ~~department~~ **division**.

SECTION 3011. Arkansas Code § 8–10–304(b)(2)(A)(i) and (ii), concerning motor vehicle racing facilities in certain municipalities, are amended to read as follows:

<< AR ST § 8–10–304 >>

(2)(A)(i) For the initial permit application for new motor vehicle racing facilities to be constructed, the ~~department~~ **division** shall conduct a public hearing on the proposed motor vehicle racing facility.

(ii) The ~~department~~ **division** shall set a date for the public hearing to be held on the proposed motor vehicle racing facility permit which shall not be fewer than thirty (30) days after the filing of the initial permit application.

SECTION 3012. Arkansas Code § 8–10–304(b)(2)(B), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

<< AR ST § 8–10–304 >>

(B)(i) The ~~department~~ **division**, in its discretion, may hold public hearings for the renewal of any permits as is necessary.

(ii) Any interested persons may appear and contest the granting of the approval or renewal of the motor vehicle racing facility permit.

(iii) Affidavits in support of or against the proposed motor vehicle racing facility or a permit renewal, which may be prepared and submitted, shall be examined by the ~~department~~ **division**.

SECTION 3013. Arkansas Code § 8–10–304(b)(3), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

<< AR ST § 8–10–304 >>

(3) After the hearing for the initial permit or upon application for the renewal of its annual permit, if the ~~department~~ **division** is satisfied that the benefits of the motor vehicle racing facility are sustained by proof and outweigh its impact by the noise, air pollution, and traffic congestion caused by motor vehicle racing facilities, then the ~~department~~ **division** shall grant the initial permit approving the proposed motor vehicle racing facility or shall renew approval to the permitted or existing motor vehicle racing facility.

SECTION 3014. Arkansas Code § 8–10–304(b)(5), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

<< AR ST § 8–10–304 >>

(5) If any material changes, additions, or improvements are made to the motor vehicle racing facility, the permit shall be amended accordingly, and the ~~department~~ **division** may reconsider the approval of the permit.

SECTION 3015. Arkansas Code § 8–11–103(a)(1), concerning the regulatory flexibility of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–11–103 >>

(a)(1) The ~~Arkansas Department~~ **Division** of Environmental Quality, by order of the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality consistent with the purposes of this chapter, may approve requests which allow an applicant to use alternative methods to comply with an Arkansas Pollution Control and Ecology Commission rule regarding the control or abatement of pollution.

SECTION 3016. Arkansas Code § 8–11–103(d), concerning the regulatory flexibility of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–11–103 >>

(d) The ~~department~~ **division** may establish a reasonable fee for applications under this section.

SECTION 3017. Arkansas Code § 8–12–104(b)(4), concerning the creation of the Natural Resources Damages Advisory Board, is amended to read as follows:

<< AR ST § 8–12–104 >>

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

SECTION 3018. 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:

<< AR ST § 8–13–101 >>

(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 3019. 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:

<< AR ST § 8–13–101 >>

(B) Organizes the ~~Arkansas Department~~ **Division** of Environmental Quality according to business function;

SECTION 3020. 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:

<< AR ST § 8–13–102 >>

(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**.

SECTION 3021. Arkansas Code § 8–13–102(b)(2) and (3), concerning the authority of the Director of the Arkansas Department of Environmental Quality to adopt an alternative organizational structure, are amended to read as follows:

<< AR ST § 8–13–102 >>

(2)(A) This section does not limit any provision of state law directing or requiring the ~~Arkansas Department~~ **Division** of Environmental Quality to carry out any function or provide any service.

(B) However, nothing in this section shall be construed to prevent the reassignment of functions or services assigned by state law where reassignment does not alter the obligation of the ~~department~~ **division** to continue providing such function or service;

(3) Such reorganization shall be based on a comprehensive analysis of all of the functions and duties administered by the ~~department~~ **division** and the development of a ten-year strategic plan of ~~department~~ **division** operations; and

SECTION 3022. Arkansas Code § 8–13–103(a), concerning requirements for comprehensive analysis and strategic planning by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–13–103 >>

(a) Any reorganization of the functions and duties for the conduct of environmental affairs through the provisions of this chapter shall be based on a comprehensive analysis of the existing operations of the ~~Arkansas Department~~ **Division** of Environmental Quality and the development of a ten-year strategic plan for ~~department~~ **division** operations. Such strategic plan shall be reviewed and updated on an annual basis and shall be made available for public review through formal notice.

SECTION 3023. Arkansas Code § 8–13–103(b)(1), concerning requirements for comprehensive analysis and strategic planning by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–13–103 >>

(1) A comprehensive analysis of each existing division, function, and duty performed by the ~~department~~ **division** in providing environmental services; and

SECTION 3024. Arkansas Code § 8–13–103(c)(1), concerning requirements for comprehensive analysis and strategic planning by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–13–103 >>

(c)(1) The strategic plan shall outline a management organization for the ~~department~~ **division** that promotes environmental protection and enhancement.

SECTION 3025. Arkansas Code § 8–13–103(c)(2)(B)(iii), concerning requirements for comprehensive analysis and strategic planning by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–13–103 >>

(iii) Such indicators shall be developed by a work group appointed by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality consisting of representatives of the ~~department~~ **division** working in collaboration with representatives from state and federal agencies, city and county officials, nonprofit organizations, minority groups, industry, colleges and universities, civic groups, and other stakeholders in environmental affairs;

SECTION 3026. Arkansas Code § 8–13–103(c)(2)(C), concerning requirements for comprehensive analysis and strategic planning by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 8–13–103 >>

(C) To organize the ~~department~~ **division** according to business functions and duties;

SECTION 3027. Arkansas Code § 12–63–402(c)(1)(B), concerning the Adjutant General of the State of Arkansas as the custodian of all military property and military reservations, is amended to read as follows:

<< AR ST § 12–63–402 >>

(B) The laws, regulations, rules, or orders of the ~~Arkansas Department~~ **Division** of Environmental Quality or the United States Environmental Protection Agency; or

SECTION 3028. Arkansas Code § 12–63–402(c)(2)(B), concerning the Adjutant General of the State of Arkansas as the custodian of all military property and military reservations, is amended to read as follows:

<< AR ST § 12–63–402 >>

(B) The Attorney General, after conferring with the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, shall advise the Governor in writing that the potential financial liability of the state for environmental remediation is de minimus, and if the Governor shall so approve and concur in the Attorney General's advice; or

SECTION 3029. Arkansas Code § 12–82–104(a)(1)(A), concerning the State Emergency Response Commission, is amended to read as follows:

<< AR ST § 12–82–104 >>

(A) The ~~directors~~ **executive heads** of the Department of Health, the ~~Arkansas Department~~ **Division** of Environmental Quality, the ~~Department~~ **Division** of Arkansas State Police, the ~~Arkansas Department~~ **Division** of Emergency Management, the ~~Department~~ **Division** of Labor, the Arkansas Fire Training Academy, and the Arkansas Department of Transportation, and the Adjutant General, or their designated representatives;

SECTION 3030. Arkansas Code § 14–25–201(d)(1), concerning responsible management entities and wastewater treatment systems, is amended to read as follows:

<< AR ST § 14–25–201 >>

(d)(1) Any installation, operation, or maintenance performed on a wastewater treatment system on behalf of a responsible management entity shall be done in compliance with the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the regulations of the Arkansas Pollution Control and Ecology Commission as administered by the ~~Arkansas Department~~ **Division** of Environmental Quality or its successor and the Department of Health or its successor.

SECTION 3031. Arkansas Code § 14-25-201(e)(1)(A), concerning responsible management entities and wastewater treatment systems, is amended to read as follows:

<< AR ST § 14-25-201 >>

(A) Before the construction of a wastewater treatment system begins, the developer secures written approval of the proposed wastewater treatment system from the Department of Health and complies with all applicable permitting requirements, including stormwater, through the ~~Arkansas Department~~ **Division** of Environmental Quality pursuant to the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the regulations of the Arkansas Pollution Control and Ecology Commission;

SECTION 3032. Arkansas Code § 14-72-101(a), concerning municipal water and sewer revenue bonds for repayment of water pollution control grants, is amended to read as follows:

<< AR ST § 14-72-101 >>

(a) Any city of the first class, city of the second class, or incorporated town, hereinafter referred to as a “municipality”, which has received from the ~~Arkansas Department~~ **Division** of Environmental Quality a water pollution control project grant funded from the proceeds of bonds of the ~~department~~ **division** issued pursuant to §§ 8-5-301 — 8-5-318 [repealed] may issue water revenue bonds under the provisions of § 14-234-201 et seq., sewer revenue bonds under the provisions of §§ 14-235-201 — 14-235-224, or combined water and sewer revenue bonds for the purpose of refunding the bonds of the ~~department~~ **division** issued to fund the grant.

SECTION 3033. Arkansas Code § 14-86-302(a), concerning the applicability of laws to entities under a federal order for sanitary sewer discharges, is amended to read as follows:

<< AR ST § 14-86-302 >>

(a) The provisions of this subchapter shall not be applicable to any city, county, or area which is under an order from the ~~Arkansas Department~~ **Division** of Environmental Quality and the United States Environmental Protection Agency to meet the minimum requirements of the United States Environmental Protection Agency for sanitary sewer discharge.

SECTION 3034. Arkansas Code § 14-116-501(d)(2)(A), concerning proposed improvement plan for assessment-based water district projects, is amended to read as follows:

<< AR ST § 14-116-501 >>

(2)(A) The Arkansas Natural Resources Commission shall solicit written comment from appropriate federal and state agencies on the items described in the final survey and report, including, but not limited to, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the Arkansas State Game and Fish Commission, the ~~Department~~ **Division** of Arkansas Heritage, and the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3035. Arkansas Code § 14-206-105(a)(1)(A), concerning proof of service, notice, and filing fee for an application for a gas or electric utility, is amended to read as follows:

<< AR ST § 14-206-105 >>

(A) The Arkansas Department **Division** of Environmental Quality;

SECTION 3036. Arkansas Code § 14-206-105(a)(1)(D), concerning proof of service, notice, and filing fee for an application for a gas or electric utility, is amended to read as follows:

<< AR ST § 14-206-105 >>

(D) The Arkansas Energy Office of the Arkansas Department **Division** of Environmental Quality;

SECTION 3037. Arkansas Code § 14-234-122 is amended to read as follows:

<< AR ST § 14-234-122 >>

14-234-122. Penalty provision.

Any entity not complying with §§ 14-234-119 — 14-234-121 may be subject to fines up to one thousand dollars (\$1,000) by the Department of Health, the Arkansas Department **Division** of Environmental Quality, or the Arkansas Natural Resources Commission and any permits or licenses obtained from these agencies are subject to cancellation or nonrenewal.

SECTION 3038. Arkansas Code § 14-235-304(2)(B), concerning restrictions on connections to a municipal sewer, is amended to read as follows:

<< AR ST § 14-235-304 >>

(B) A municipal board of health may order or compel the building of a sewer by a property owner under subdivision (2)(A) of this section only if the existing sewer on the property owner's property is the subject of an enforcement action by the Arkansas Department **Division** of Environmental Quality or a prosecuting attorney.

SECTION 3039. Arkansas Code § 14-236-104(a)(3), concerning certain individual systems excepted from the Arkansas Sewage Disposal Systems Act, is amended to read as follows:

<< AR ST § 14-236-104 >>

(3) In a subdivision for which a master plan has been approved by the Department of Health, ~~or~~ the Arkansas Department of Environmental Quality, **or the Division of Environmental Quality** prior to July 1, 1977, or for which the Department of Health, ~~or~~ the Arkansas Department of Environmental Quality, **or the Division of Environmental Quality** has otherwise previously issued its written approval for the installation of individual sewage disposal systems and where individual lots have been developed or sold in reliance upon the prior written approval, individual sewage disposal systems shall not be required to conform to more stringent specifications as to design, construction, and installation than those standards in effect at the time of or referred to in the prior written approval.

SECTION 3040. Arkansas Code § 14-236-109 is amended to read as follows:

<< AR ST § 14-236-109 >>

14-236-109. Property owners' associations — Powers and duties.

Property owners' associations that construct and maintain or have constructed and maintained sewage disposal facilities in accordance with the standards and regulations established by the Division of Environmental Health Protection of the Department of Health or the ~~Arkansas Department~~ **Division** of Environmental Quality shall have jurisdiction over the disposal of sewage within and for the subdivided area over which their authority extends and shall have general supervision and authority over the location, design, construction, installation, and operation of individual and community sewage disposal systems to the extent that the general supervision and authority is consistent with this chapter and the rules and regulations promulgated thereunder.

SECTION 3041. Arkansas Code § 14-250-102(3), concerning the definition of “department” under the Wastewater Treatment Districts Act, is repealed.

<< AR ST § 14-250-102 >>

(3) “~~Department~~” means the ~~Arkansas Department of Environmental Quality~~;

SECTION 3042. Arkansas Code § 15-4-2406(a)(2)(B), concerning refund of the recycling tax credit, is amended to read as follows:

<< AR ST § 15-4-2406 >>

(B) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality finds that the qualified manufacturer of steel has operated the waste reduction, reuse, or recycling equipment in a manner which demonstrates a pattern of intentional failure to comply with final administrative or judicial orders which clearly indicates a disregard for environmental regulation.

SECTION 3043. Arkansas Code § 15-5-901(d)(1), concerning the establishment of the Construction Assistance Revolving Loan Fund, is amended to read as follows:

<< AR ST § 15-5-901 >>

(d)(1) There is established a separate account within the Construction Assistance Revolving Loan Fund, designated the “Remedial Action Account”, into which moneys identified in § 8-7-504(c) and any other moneys as designated by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality shall be deposited.

SECTION 3044. Arkansas Code § 15-5-902(b), concerning the administration of the Construction Assistance Revolving Loan Fund, is amended to read as follows:

<< AR ST § 15-5-902 >>

(b) The commission may enter into contracts and other agreements in connection with the operation of the fund, including without limitation contracts and agreements with federal agencies, local governmental entities, the Arkansas

Development Finance Authority, the ~~Arkansas Department~~ **Division** of Environmental Quality, and other persons to the extent necessary or convenient for the implementation of the fund and programs financed, in whole or in part, with moneys in the fund.

SECTION 3045. Arkansas Code § 15–5–909, concerning the definition of “department” under the law regarding Construction Assistance Revolving Loans, is repealed.

<< AR ST § 15–5–909 >>

(5) ~~“Department” means the Arkansas Department of Environmental Quality or a successor agency of the state;~~

SECTION 3046. The introductory language of Arkansas Code § 15–5–1204(a)(1), concerning issuance of revenue bonds by the Arkansas Development Finance Authority at the request of the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15–5–1204 >>

(a)(1) Upon the request of the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality and based upon an estimate by the Department of Finance and Administration of the pledged fees to be collected, the Arkansas Development Finance Authority may issue bonds for the purpose of:

SECTION 3047. Arkansas Code § 15–5–1502(2), concerning the definition of “department” under the Arkansas Sewage Disposal Systems Act, is repealed.

<< AR ST § 15–5–1502 >>

(2) ~~“Department” means the Arkansas Department of Environmental Quality or its successor; and~~

SECTION 3048. Arkansas Code § 15–5–1503(a)(1), concerning the establishment and use of the Brownfield Revolving Loan Fund, is amended to read as follows:

<< AR ST § 15–5–1503 >>

(a)(1) There is established on the books of the Arkansas Development Finance Authority a special restricted fund to be known as the “Brownfield Revolving Loan Fund”, which shall be maintained by the authority and administered by the ~~Arkansas Department~~ **Division** of Environmental Quality for the purposes stated under this subchapter.

SECTION 3049. Arkansas Code § 15–5–1505 is amended to read as follows:

<< AR ST § 15–5–1505 >>

15–5–1505. Brownfield Revolving Loan Fund — Administration.

(a)(1) The Brownfield Revolving Loan Fund shall be administered by the ~~Arkansas Department~~ **Division** of Environmental Quality, with the Arkansas Development Finance Authority serving as agent for the ~~department~~ **division**.

(2) The ~~department~~ **division** may establish procedures to administer the fund and the programs financed, in whole or in part, with moneys from the fund that are used for the purposes stated under this subchapter.

(3) The ~~department~~ **division** may enter into contracts and other agreements in connection with the operation of the fund, including contracts and agreements with federal agencies, local governmental entities, the authority, and other persons, to implement this subchapter.

(b) The ~~department~~ **division** shall have full authority to operate the fund and may make withdrawals as necessary to achieve the intended purposes of this subchapter.

SECTION 3050. The introductory language of Arkansas Code § 15–5–1506(a), concerning the loans and grants from the Brownfield Revolving Loan Fund, is amended to read as follows:

<< AR ST § 15–5–1506 >>

(a) With approval of the ~~Arkansas Department~~ **Division** of Environmental Quality, the Arkansas Development Finance Authority may:

SECTION 3051. Arkansas Code § 15–5–1509 is amended to read as follows:

<< AR ST § 15–5–1509 >>

15–5–1509. Administrative fees.

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality and the Arkansas Development Finance Authority may establish fees for their respective administrative services under this subchapter, including the costs of financing loans and awarding grants under this subchapter.

(b) The authority to establish fees under this section is supplemental to the authority granted to the ~~department~~ **division** or the authority under other laws.

SECTION 3052. Arkansas Code § 15–5–1510 is amended to read as follows:

<< AR ST § 15–5–1510 >>

15–5–1510. Collection of fees.

(a)(1) With approval of the ~~Arkansas Department~~ **Division** of Environmental Quality, the Arkansas Development Finance Authority may collect administrative fees and remit the fees directly to the authority within fifteen (15) days after each payment is collected.

(2) The authority shall remit any administrative fee owed to the ~~department~~ **division**, and the fees shall be deposited into the Brownfield Revolving Loan Fund on a quarterly basis.

(3) **(b)** Any administrative fees owed to the authority shall not be deposited into the fund.

SECTION 3053. Arkansas Code § 15–5–1511 is amended to read as follows:

<< AR ST § 15–5–1511 >>

15–5–1511. Regulations.

The ~~Arkansas Department~~ **Division** of Environmental Quality may adopt regulations as necessary to implement this subchapter.

SECTION 3054. Arkansas Code § 15–10–202(5), concerning a declaration of policy by the General Assembly under the Arkansas Energy Reorganization and Policy Act of 1981, is amended to read as follows:

<< AR ST § 15–10–202 >>

(5) It is in the best interest of the citizens of this state to establish the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality to coordinate the planning and execution of comprehensive energy conservation programs; and

SECTION 3055. Arkansas Code § 15–10–203 is amended to read as follows:

<< AR ST § 15–10–203 >>

15–10–203. Arkansas Energy Office — Creation.

(a)(1) There is created the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality.

(2)(A) The executive head of this office shall be the Director of the Arkansas Energy Office.

(B) The Director of the Arkansas Energy Office shall be appointed by the ~~Director of the Arkansas Department of Environmental Quality~~ **Secretary of the Department of Energy and Environment** with the advice and consent of the Governor.

(b) The office shall consist of such sections as may be established by the Director of the Arkansas Energy Office, with the approval of the Director of the ~~Arkansas Department of~~ **Division of Environmental Quality and the secretary**.

SECTION 3056. Arkansas Code § 15–10–204(c), concerning the Director of the Arkansas Energy Office, is amended to read as follows:

<< AR ST § 15–10–204 >>

(c) In addition to other duties and functions prescribed for the Director of the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality elsewhere in this subchapter, the Director of the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality shall supervise the daily operation of the office and advise the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, the Governor, and the General Assembly on energy matters.

SECTION 3057. The introductory language of Arkansas Code § 15–10–205(a), concerning the powers and duties of the Arkansas Energy Office of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15–10–205 >>

(a) The Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality shall coordinate authority and planning by the state in energy-related matters and shall have the following duties and responsibilities:

SECTION 3058. The introductory language of Arkansas Code § 15–10–903(a)(1), concerning a rebate for refueling stations provided by the Arkansas Energy Office of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15–10–903 >>

(a)(1) The Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality may offer a rebate for each approved private electric vehicle charging station, public electric vehicle charging station, compressed natural gas refueling station, liquefied natural gas refueling station, and liquefied petroleum gas refueling station that is:

SECTION 3059. Arkansas Code § 15–10–903(a)(2), concerning a rebate for refueling stations provided by the Arkansas Energy Office of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15–10–903 >>

(2) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may increase the rebate percentages listed under subdivision (a)(1) of this section if the increase is designated or authorized by a funding source approved by a federal settlement or state settlement.

SECTION 3060. The introductory language of Arkansas Code § 15–10–904(a), concerning rebates for qualified alternative motor vehicle property, is amended to read as follows:

<< AR ST § 15–10–904 >>

(a) The Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality may offer a rebate for qualified alternative motor vehicle property that is:

SECTION 3061. Arkansas Code § 15–10–904(b), concerning rebates for qualified alternative motor vehicle property, is amended to read as follows:

<< AR ST § 15–10–904 >>

(b) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may increase the rebate percentages listed under subsection (a) of this section if the increase is designated or authorized by a funding source approved by a federal settlement or state settlement.

SECTION 3062. Arkansas Code § 15–22–222(b), concerning minimum stream flows established by the Arkansas Natural Resources Commission, is amended to read as follows:

<< AR ST § 15–22–222 >>

(b)(1) Prior to the establishment of minimum stream flows, the Arkansas Natural Resources Commission shall notify by certified mail, return receipt requested, the Arkansas State Game and Fish Commission, the ~~Arkansas Department~~ **Division** of Environmental Quality, and any other interested state boards and commissions.

(2) Within thirty (30) days of receipt of notice, the Arkansas State Game and Fish Commission and the ~~Arkansas Department~~ **Division** of Environmental Quality shall file written comments with the Arkansas Natural Resources Commission.

SECTION 3063. Arkansas Code § 15–22–224(b)(1)(B)(ii), concerning appointment of receiver, is amended to read as follows:

<< AR ST § 15–22–224 >>

(ii) The Arkansas Water and Air Pollution Control Act, § 8–4–101 et seq., or rules promulgated in support of the Arkansas Water and Air Pollution Control Act, § 8–4–101 et seq., by the Arkansas Pollution Control and Ecology Commission or any successor or successors and enforced by the ~~Arkansas Department~~ **Division** of Environmental Quality or any successor or successors.

SECTION 3064. Arkansas Code § 15–22–224(g), concerning appointment of receiver, is amended to read as follows:

<< AR ST § 15–22–224 >>

(g) Upon certification by the Department of Health that the public water system's or public sewer system's operation represents an immediate public health threat or certification by the ~~Arkansas Department~~ **Division** of Environmental Quality that the public sewer system is being operated in a manner to allow the discharge of pollutants in quantities unacceptable under applicable permits or state water quality standards and posing an imminent threat to public health, a court having jurisdiction in any proper action may, upon application of the Arkansas Natural Resources Commission, immediately appoint a receiver to take charge of the public water system or public sewer system.

SECTION 3065. Arkansas Code § 15–22–906(c), concerning the groundwater protection program, is amended to read as follows:

<< AR ST § 15–22–906 >>

(c)(1) This program shall not be inconsistent with nor shall it preempt or supersede any regulatory authority currently or in the future vested with the ~~Arkansas Department~~ **Division** of Environmental Quality, the State Plant Board, or the Department of Health.

(2) However, no permit or prior authorization from the ~~Arkansas Department~~ **Division** of Environmental Quality, the State Plant Board, or the Department of Health shall be required to implement the provisions of this subchapter.

SECTION 3066. Arkansas Code § 15–23–303(2), concerning the definition of “natural rivers” under the Arkansas Natural and Scenic Rivers System Act, is amended to read as follows:

<< AR ST § 15–23–303 >>

(2) “Natural rivers” means those rivers or sections thereof that are generally free from man-made impoundments and may have primitive, undeveloped roads whose lands are essentially primitive, i.e., with a minimal amount of disturbance by people. The water shall have the use classification AA according to the 1976 Arkansas water quality inventory report by the Arkansas Department of Environmental Quality, **now known as the Division of Environmental Quality**;

SECTION 3067. Arkansas Code § 15–23–303(3), concerning the definition of “natural rivers” under the Arkansas Natural and Scenic Rivers System Act, is amended to read as follows:

<< AR ST § 15–23–303 >>

(3) "Pastoral rivers" means rivers or sections thereof which are readily accessible, have some housing or other development near their shorelines, have preexisting impoundments that do not substantially alter the character and quality of the stream, partially or predominantly flow through agricultural areas, and have the use classification B according to the 1976 Arkansas water quality inventory report by the department **Arkansas Department of Environmental Quality, now known as the Division of Environmental Quality**;

SECTION 3068. Arkansas Code § 15-55-204 is amended to read as follows:

<< AR ST § 15-55-204 >>

15-55-204. State Geologist.

(a)(1) The State Geologist shall be appointed by and serve at the pleasure of the Governor.

(2) The State Geologist shall report to the Secretary of the Department of Energy and Environment.

(b) He or she shall:

(1) Be charged with the duty of administering the provisions of this subchapter and the rules, regulations, and orders established thereunder;

(2) Be custodian of all property held in the name of the Arkansas Geological Survey, and shall be, ex officio, **in consultation with the Secretary of the Department of Energy and Environment**, the disbursing agent of all funds available for its use; ~~and~~

(3) Furnish bond to the state, with corporate surety thereon, in the penal sum of ten thousand dollars (\$10,000), conditioned that he or she will faithfully perform his or her duties of employment and properly account for all funds received and disbursed by him or her. An additional disbursing agent's bond shall not be required of the State Geologist. The bond so furnished shall be filed with the Secretary of State, and an executed counterpart thereof shall be filed with the Auditor of State; **and**

(c) The ~~commission~~ **Arkansas Geological Commission**, by resolution duly adopted, may delegate to the State Geologist any of the powers or duties vested in or imposed upon it by this subchapter, and the delegated powers and duties may be exercised by the State Geologist in the name of the ~~commission~~ **Arkansas Geological Commission**.

SECTION 3069. Arkansas Code § 15-55-205 is amended to read as follows:

<< AR ST § 15-55-205 >>

15-55-205. Geological assistants and engineers.

(a) It shall be the duty of the State Geologist, by and with the approval of the Arkansas Geological Survey **and the Secretary of the Department of Energy and Environment**, to appoint trained geological assistants, engineers, and others efficient in the arts and sciences as may be necessary to completely carry on the investigations undertaken.

(b) The State Geologist, assistants, and engineers, are directed to go into any mine or other place, where it is thought necessary by the State Geologist to go, in executing the directions of the ~~commission~~ **or the Department of Energy and Environment**.

SECTION 3070. Arkansas Code § 15–57–202(a), concerning exemptions from land reclamation laws, is amended to read as follows:

<< AR ST § 15–57–202 >>

(a) The owners of lands on which are situated open-cut mining pits that are not subject to the requirements of the Arkansas Open–Cut Land Reclamation Act of 1977 [repealed] or any other land reclamation laws of this state are authorized to make voluntary environmental or aesthetic improvements to reclaim or improve the lands and the open-cut mining pits thereon after first giving written notice of the proposed improvements to the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3071. Arkansas Code § 15–57–203 is amended to read as follows:

<< AR ST § 15–57–203 >>

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 3072. 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.

<< AR ST § 15–57–303 >>

~~(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 3073. 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:

<< AR ST § 15–57–303 >>

(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 3074. Arkansas Code § 15-57-304(a)(1), concerning violations of the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

<< AR ST § 15-57-304 >>

(1) Violate any provision of this subchapter or any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission or the ~~Arkansas Department~~ **Division** of Environmental Quality issued pursuant to this subchapter;

SECTION 3075. Arkansas Code § 15-57-304(a)(5), concerning violations of the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

<< AR ST § 15-57-304 >>

(5) Willfully resist, prevent, impede, or interfere with the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or any of his or her authorized representatives in the performance of duties pursuant to this subchapter.

SECTION 3076. The introductory language of Arkansas Code § 15-57-305(a), concerning civil and administrative penalties regarding the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

<< AR ST § 15-57-305 >>

(a) Civil Penalties. The ~~Arkansas Department~~ **Division** of Environmental Quality is authorized to institute a civil action in any court of competent jurisdiction to accomplish any or all of the following:

SECTION 3077. Arkansas Code § 15-57-305(a)(3), concerning civil and administrative penalties regarding the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

<< AR ST § 15-57-305 >>

(3) To recover all costs, expenses, and damages to the ~~department~~ **division** or any other agency of the state in enforcing the provisions of this subchapter and reclaiming affected land;

SECTION 3078. The introductory language of Arkansas Code § 15-57-305(b)(1), concerning civil and administrative penalties regarding the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

<< AR ST § 15-57-305 >>

(1) Any person who engages in open-cut mining without first securing a permit as required by this subchapter or who fails to reclaim affected lands in accordance with this subchapter or who violates any provision of this or any order, regulation, rule, permit, or reclamation plan issued pursuant thereto, may be assessed an administrative civil penalty by the ~~department~~ **division** not to exceed:

SECTION 3079. Arkansas Code § 15-57-306 is amended to read as follows:

<< AR ST § 15-57-306 >>

15-57-306. Administration.

The ~~Arkansas Department~~ **Division** of Environmental Quality through the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, and any representatives designated by the director, shall administer and enforce the provisions of this subchapter, except for those provisions specifically designated to the Arkansas Pollution Control and Ecology Commission.

SECTION 3080. Arkansas Code § 15-57-308 is amended to read as follows:

<< AR ST § 15-57-308 >>

15-57-308. Technical and financial assistance.

The ~~Arkansas Department~~ **Division** of Environmental Quality shall have the authority to cooperate with and receive technical and financial assistance from the United States, or any department, agency, or officer thereof, for any purposes relating to the reclamation of affected lands.

SECTION 3081. Arkansas Code § 15-57-309 is amended to read as follows:

<< AR ST § 15-57-309 >>

15-57-309. Entry on lands for inspection.

The ~~Arkansas Department~~ **Division** of Environmental Quality or its designated representatives may enter upon the lands affected by open-cut mining at all reasonable times for the purpose of determining compliance with the provisions of this subchapter.

SECTION 3082. Arkansas Code § 15-57-310(a), concerning the necessity of a permit and effective date of the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

<< AR ST § 15-57-310 >>

(a) It shall be unlawful for any operator to engage in open-cut mining without first obtaining from the ~~Arkansas Department~~ **Division** of Environmental Quality a permit to do so in the form required by the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3083. Arkansas Code § 15-57-310(g), concerning the necessity of a permit and effective date of the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

<< AR ST § 15-57-310 >>

(g)(1) The ~~Arkansas Department~~ **Division** of Environmental Quality shall develop regulations to implement the provisions of this chapter.

(2) The ~~Arkansas Department~~ **Division** of Environmental Quality shall develop documentation that will guide an operator through the permitting process.

SECTION 3084. 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:

<< AR ST § 15-57-311 >>

(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 3085. 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:

<< AR ST § 15-57-311 >>

(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 3086. 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:

<< AR ST § 15-57-311 >>

(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 3087. 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:

<< AR ST § 15-57-311 >>

(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 3088. The introductory language of Arkansas Code § 15-57-311(j)(1)(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:

<< AR ST § 15-57-311 >>

(j)(1)(A) After notice and opportunity for a public hearing, the department **division** may develop and issue general permits for any category of activities involving open-cut mining operations if the ~~department~~ **division** determines that the activities in a category:

SECTION 3089. Arkansas Code § 15-57-311(j)(1)(B), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

<< AR ST § 15-57-311 >>

(B) To qualify for inclusion under the general permit, applicants shall submit a notice of intent and supporting documentation on forms developed by the ~~department~~ **division**.

SECTION 3090. Arkansas Code § 15-57-311(j)(2), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

<< AR ST § 15-57-311 >>

(2) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality at his or her discretion may require an applicant to seek coverage under an individual permit.

SECTION 3091. The introductory language of Arkansas Code § 15-57-311(j)(3)(B), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

<< AR ST § 15-57-311 >>

(B) The general permit may be revoked or modified by the ~~department~~ **division** if after opportunity for a public hearing the ~~department~~ **division** determines that the activities authorized by the general permit:

SECTION 3092. Arkansas Code § 15-57-313 is amended to read as follows:

<< AR ST § 15-57-313 >>

15-57-313. Withdrawal of land covered by permit.

An operator may withdraw any land covered by a permit, except affected land, by notifying the ~~Arkansas Department~~ **Division** of Environmental Quality, in which case the penalty of the bond or substituted security filed by the operator pursuant to the provisions of this subchapter shall be reduced proportionately.

SECTION 3093. Arkansas Code § 15-57-314 is amended to read as follows:

<< AR ST § 15-57-314 >>

15-57-314. Extension of permit.

Where the area for which a permit is in effect is not mined or where open-cut mining operations have not been completed during the permit term, the permit as to such area may be extended by the ~~Arkansas Department~~ **Division** of Environmental Quality on the terms and conditions required by the ~~department~~ **division**.

SECTION 3094. Arkansas Code § 15-57-315(1)(A)(ii)(b), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

<< AR ST § 15-57-315 >>

(b) The ~~Arkansas Department~~ **Division** of Environmental Quality may approve a steeper final slope where the original contour of the affected land was steeper than the one (1) to three (3) ratio if the operator can assure, to the satisfaction of the ~~department~~ **division**, the integrity of the final contour.

SECTION 3095. Arkansas Code § 15-57-315(1)(B), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

<< AR ST § 15-57-315 >>

(B) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality shall develop regulations which will allow the ~~department~~ **division** the discretion to permit deviations from certain reclamation standards, including final slope steepness requirements within this subdivision (1), because of unique mining situations, provided the deviations are consistent with the declaration of policy in this subchapter;

SECTION 3096. Arkansas Code § 15-57-315(2)(B)(ii), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

<< AR ST § 15-57-315 >>

(ii) However, where water runoff from outside the affected area into the lake has a pH factor of less than six (6) or greater than nine (9) or in order to allow the lake to more closely match the natural environment, the ~~department~~ **division**, in its discretion, may allow a deviation in pH levels;

SECTION 3097. Arkansas Code § 15-57-315(3), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

<< AR ST § 15-57-315 >>

(3) On all affected land which is to be reforested, the operator shall construct reasonable fire lanes or access roads of at least ten feet (10#) in width through the land unless this requirement is waived by the ~~department~~ **division**;

SECTION 3098. Arkansas Code § 15-57-315(4)(A), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

<< AR ST § 15-57-315 >>

(4)(A) Requirements for both establishment and maintenance of the vegetative cover shall be established by the ~~department~~ **division**, and the operator shall comply with the requirements or use other equally effective means.

SECTION 3099. Arkansas Code § 15-57-315(4)(C), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

<< AR ST § 15-57-315 >>

(C)(i) Laboratory soil tests and recommendations shall be obtained from the University of Arkansas Cooperative Extension Service or any other public or private organization or person approved by the ~~department~~ **division**.

(ii) The operator shall furnish copies of the soil sample report and recommendations to the ~~department~~ **division**.

SECTION 3100. Arkansas Code § 15-57-315(5)(B), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

<< AR ST § 15-57-315 >>

(B)(i) For the ~~department~~ **division** to approve a variance on the fifty-foot buffer zone, there must be an agreement between the affected property owner or right-of-way holder and the operator.

(ii) Proof of such an agreement must be provided to the ~~department~~ **division**.

SECTION 3101. Arkansas Code § 15-57-315(6) and (7), concerning the duties of an operator in an open-cut mine, are amended to read as follows:

<< AR ST § 15-57-315 >>

(6)(A) Whenever the exposed face of mined seams that contain acid-forming materials is not covered by water or by permanent water impoundment, the operator who mined the seams shall cover the exposed face of the seams with earth or spoil materials to a depth of not less than three feet (3#) upon receiving approval from the ~~department~~ **division**.

(B) Alternatively, the ~~department~~ **division** may approve any other course or conduct proposed by the operator which will assure protection of the seams from atmospheric exposure, minimize leaching action, or otherwise conform with water pollution control criteria to prevent formation of acid mine water or discharge mine water;

(7)(A) The operator shall submit to the ~~department~~ **division** no later than June 1 of each year of the permit term:

(i) A map in a form acceptable to the ~~department~~ **division** showing the location of the affected areas by section, township, range, and county with other legal description as will identify the affected land during the permit term upon which the operator has completed mining operations;

(ii) The extent of completed reclamation as required under § 15-57-311(d); and

(iii) A legend upon the map showing the number of acres of affected land.

(B) The annual report shall include the amount of material mined during each twelve-month period;

SECTION 3102. Arkansas Code § 15-57-315(8)(A), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

<< AR ST § 15-57-315 >>

(8)(A) The ~~department's~~ **division's** approval of the operator's reclamation plan may be based upon the advice and technical assistance of the Arkansas Natural Resources Commission, the Arkansas State Game and Fish Commission, the State Forester, the Arkansas Geological Survey, and other agencies or persons having experience in foresting and

reclaiming open-cut mined lands with forest or agronomic or horticultural species, based upon scientific knowledge from research into reclaiming and utilizing forest and agronomic species on open-cut mined lands.

SECTION 3103. Arkansas Code § 15-57-315(9)(A)(ii), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

<< AR ST § 15-57-315 >>

(ii) Where natural weathering and leaching of affected land fails to support plant growth at the end of the reclamation period as required under § 15-57-311(d), the ~~department~~ **division**, at the request of the operator, may approve a permit extension from year-to-year from the termination of the permit on the permitted area.

SECTION 3104. Arkansas Code § 15-57-315(9)(B), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

<< AR ST § 15-57-315 >>

(B) In the event that the operator does not comply with its schedule of reclamation or extensions granted within a reasonable period of time, to be determined by the ~~department~~ **division**, the bond or substituted security of affected land not satisfactorily reclaimed shall be forfeited;

SECTION 3105. Arkansas Code § 15-57-315(10) and (11), concerning the duties of an operator in an open-cut mine, are amended to read as follows:

<< AR ST § 15-57-315 >>

(10) In the event that the operator's reclamation plan is found impracticable by the operator, upon the application of the operator, the ~~department~~ **division**, in its discretion, may allow the modification of the reclamation plan, provided that the modified plan will carry out the purposes of this subchapter;

(11) All mine spoil generated by the operator shall be disposed of in a manner approved by the ~~department~~ **division** and designed to control siltation, erosion, or other damage to streams and natural watercourses, as best allowed by the soil conditions of the permitted area;

SECTION 3106. Arkansas Code § 15-57-315(14), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

<< AR ST § 15-57-315 >>

(14) Upon approval from the ~~department~~ **division**, stockpiles of processed materials may be left without being reclaimed if there is a likelihood that there will be a market for the material in the future and that there will be no form of pollution from the stockpiles remaining on or leaving the property.

SECTION 3107. Arkansas Code § 15-57-316 is amended to read as follows:

<< AR ST § 15-57-316 >>

15-57-316. Bond of operator.

(a)(1)(A) Any bond provided in this subchapter to be filed with the ~~Arkansas Department~~ **Division** of Environmental Quality by the operator shall be in such form as the ~~department~~ **division** shall prescribe, payable to the State of Arkansas through the ~~department~~ **division**, conditioned that the operator shall faithfully perform all requirements of this subchapter and comply with all rules, regulations, and orders made in accordance with the provisions of this subchapter.

(B) The bond shall be signed by the operator and a good and sufficient corporate surety authorized to do business in the United States.

(2) The penalty of the bond shall be in an amount equal to the estimated cost of reclamation, as required in § 15-57-311(d).

(3)(A) In the event that the ~~department~~ **division** finds the cost of reclamation to be an underestimate, the ~~department~~ **division** shall make use of available expertise to establish the estimated cost of reclamation, which shall be the amount of the bond.

(B) In the event of a disagreement concerning the estimate of the proper amount of the bond, the ~~department~~ **division** may retain independent expertise as is necessary to establish the amount of the bond.

(4) The Arkansas Pollution Control and Ecology Commission shall promulgate regulations concerning bonds and substituted security which will attempt to ensure that small operators are not precluded from development of mineral resources as a result of high bond amounts, but which will provide reasonable security.

(b)(1) The ~~department~~ **division** may accept cash, securities, or other collateral, including, but not limited to, letters of credit and mortgages on real property provided by the operator in an amount equal to that of the required bond as provided in subsection (a) of this section.

(2) The bond or substituted security may be increased or reduced from time to time as provided in this subchapter.

(3) The bond or substituted security shall be in effect and subject to forfeiture in accordance with this subchapter from and after the time that the operator has affected land in the process of open-cut mining or after the time a permit is granted by the ~~department~~ **division** until the affected area has been reclaimed, approved, and released.

(c)(1) Any bond or substituted security shall not be cancelled by the surety unless it has given no less than ninety (90) days' notice of the cancellation to the ~~department~~ **division**.

(2) In no event shall a bond be cancelled on an area that at the time of cancellation has become affected land under the provisions of this subchapter.

(d)(1) If the license to do business of any surety upon a bond or substituted security filed with the ~~department~~ **division** pursuant to this subchapter shall be suspended or revoked, the operator, within thirty (30) days after receiving notice of the revocation, shall substitute for the surety a licensed corporate surety.

(2) Upon the failure of the operator to make substitution of the surety, the ~~department~~ **division** shall suspend the permit of the operator until the substitution is made.

(e)(1) The department **division** shall give written notice to the operator of any violation of this subchapter or noncompliance with any of the rules, regulations, or orders promulgated under this subchapter.

(2) If corrective measures determined by the department **division**, including, but not limited to, increase of the bond or substituted security, are not commenced or agreed to by the operator within a reasonable period of time to be determined by the department **division**, the department **division** may terminate the permit of the operator and forfeit the bond or substituted security.

(3) If a permit has not been issued but a bond has been posted during the application process and this process will not be completed and there is affected land at the site, the department **division** may forfeit the bond or substituted security as provided in § 15-57-317.

(f) The department **division** may reclaim any affected land for which a bond has been forfeited.

(g)(1) Whenever an operator shall have completed all requirements under the provisions of this subchapter as to any affected land, it shall so notify the department **division**.

(2) If the department **division** determines that the operator has completed reclamation requirements and achieved results appropriate to the use for which the affected land was reclaimed, the department **division** shall release the operator from further obligations regarding the affected land and the penalty of the bond or substituted security shall be reduced accordingly.

(h)(1) Upon partial completion of reclamation, the operator may submit a written request to the department **division** for the purpose of proportionately reducing the amount of the bond or substituted security upon affected lands.

(2) If the department **division** determines that proper reclamation has been accomplished under the provisions of this subchapter on an area less than the total area of the affected area, the department **division** shall proportionately reduce the amount of the bond or substituted security.

(i) No operator shall be eligible to receive a new or renewed permit who has had a permit revoked, bond forfeited, or who has outstanding substantial unmitigated violations of this subchapter, including failure to reclaim, unless the department **division** finds upon review a demonstrable change of circumstances justifying an exception to these prohibitions.

(j) Liability under the bond or substituted security shall be for the duration of the open-cut mining operation and for that period required to establish successful reclamation of the affected area.

(k) Nothing contained herein shall be deemed to preclude the right of the department **division** to recover the actual cost of reclamation over and above the amount of bond.

SECTION 3108. Arkansas Code § 15-57-317 is amended to read as follows:

<< AR ST § 15-57-317 >>

15-57-317. Bond forfeiture proceedings.

(a) The Arkansas Department **Division** of Environmental Quality may institute proceedings to have the bond or substituted security of the operator forfeited for any of the following reasons, including, but not limited to:

(1) Failure to abate any violation of this subchapter or any rule or regulation promulgated thereunder;

(2) Failure to comply with the terms and conditions of the open-cut mining permit or the bond;

- (3) Failure to comply with any order of the ~~department~~ **division**;
 - (4) Failure to reclaim any affected land in accordance with this subchapter; or
 - (5) Insolvency, bankruptcy, or receivership of the operator.
- (b) The ~~department~~ **division** shall notify the operator in writing of the bond forfeiture, and the operator shall be given an opportunity for a hearing as provided in this subchapter.

SECTION 3109. Arkansas Code § 15-57-318 is amended to read as follows:

<< AR ST § 15-57-318 >>

15-57-318. Registration of existing open-cut mines.

The ~~Arkansas Department~~ **Division** of Environmental Quality shall require registration of all existing unpermitted open-cut mines in which mining operations are not being conducted.

SECTION 3110. Arkansas Code § 15-57-319 is amended to read as follows:

<< AR ST § 15-57-319 >>

15-57-319. Land Reclamation Fund — Permit fee.

- (a) A Land Reclamation Fund is established on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State. The fund shall consist of civil penalty and bond forfeiture amounts, gifts, grants, donations, and other funds as may be made available by the General Assembly, including all interest earned upon moneys deposited into the fund. The ~~Arkansas Department~~ **Division** of Environmental Quality shall use the funds to accomplish reclamation of affected lands.
- (b) All fees and any moneys collected as reimbursement for expenses, costs, and damages to the state under the provisions of this subchapter shall be deposited in the general revenue fund of the ~~department~~ **division** and shall be used to defray the administrative and enforcement costs of this subchapter.
- (c) The Arkansas Pollution Control and Ecology Commission may by regulation prescribe an annual permit fee on affected lands.

SECTION 3111. Arkansas Code § 15-57-320(e)(2) and (3), concerning exemptions from the Arkansas Open-Cut Land Reclamation Act, are amended to read as follows:

<< AR ST § 15-57-320 >>

- (2) In the event that authorization pursuant to section 404 of the Federal Clean Water Act is determined by the United States Army Corps of Engineers not to be required for a specific flood control or bank stabilization project, the ~~Arkansas Department~~ **Division** of Environmental Quality will review the proposed project plan using the Section 401 water quality certification criteria.
- (3) The ~~department~~ **division** shall provide the necessary authorization for the project once it has been determined that the activity will not adversely affect water quality.

SECTION 3112. Arkansas Code § 15-57-320(f)(1), concerning exemptions from the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

<< AR ST § 15-57-320 >>

(f)(1) All stream gravel mining operations on streams designated as extraordinary resource waters after January 1, 1995, may continue to operate under a permit issued by the ~~department~~ **division** for a period of two (2) years from the date of the designation.

SECTION 3113. Arkansas Code § 15-57-402(5)-(7), concerning the definition of “default”, “department”, and “director” under the Arkansas Quarry Operation, Reclamation, and Safe Closure Act, are amended to read as follows:

<< AR ST § 15-57-402 >>

(5) “Default” means an operation that has uncorrected violations of the requirements of this subchapter which allows the ~~Arkansas Department~~ **Division** of Environmental Quality to forfeit the bond to have the site reclaimed as per the reclamation plan;

(6) “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;~~

(7) “Director” means the ~~executive head and active administrator of the Arkansas Department of Environmental Quality;~~

SECTION 3114. Arkansas Code § 15-57-402(9), concerning the definition of “fee” under the Arkansas Quarry Operation, Reclamation, and Safe Closure Act, is amended to read as follows:

<< AR ST § 15-57-402 >>

(9) “Fee” means the notification or annual operating payment made by the operator to the ~~department~~ **division**. The amount cannot be changed except by legislative action. This fee will be payable on or before July 1 for all operating quarries in the current calendar year;

SECTION 3115. Arkansas Code § 15-57-402(14), concerning the definition of “notification of intent” under the Arkansas Quarry Operation, Reclamation, and Safe Closure Act, is amended to read as follows:

<< AR ST § 15-57-402 >>

(14) “Notification of intent” is the operator's proper notification to the ~~department~~ **division** of the operator's intent to open a quarry, to temporarily close a quarry, to reactivate a quarry, and to shut down an exhausted quarry;

SECTION 3116. Arkansas Code § 15-57-402(19), concerning the definition of “reclamation plan” under the Arkansas Quarry Operation, Reclamation, and Safe Closure Act, is amended to read as follows:

<< AR ST § 15-57-402 >>

(19) "Reclamation plan" is a plan presented to the ~~department~~ **division** by an operator detailing the reclamation and revegetation of lands affected by quarrying both contemporaneously and after the quarry is exhausted, and required by this subchapter;

SECTION 3117. Arkansas Code § 15-57-403 is amended to read as follows:

<< AR ST § 15-57-403 >>

15-57-403. Notification — Filing — Public notice and response.

(a) It shall be unlawful for any operator to engage in a quarrying operation without first submitting to the ~~Arkansas Department~~ **Division** of Environmental Quality a "notification of intent to quarry" or a "notification of reactivated quarry" in accordance with this subchapter. The submittal, with returned receipt, shall enable the operator to begin or continue quarrying as long as the required reclamation bond is in force and proof of public notification is included. An operator shall be deemed to be quarrying from the time he or she begins start-up until reclamation is completed at the exhausted quarry.

(b) Only new quarries or any land purchased or leased for a quarry after January 1, 1997, will be subject to this subchapter.

(c) There will be no requirements for a "notification of intent" to be filed with the ~~department~~ **division** for temporarily closed or exhausted quarries in existence prior to January 1, 1998. These quarries will be exempt from the requirements of this subchapter unless reactivated.

(d) A new notification of intent to quarry shall be required if a change in the majority ownership of an operator occurs.

(e) Representatives of the ~~department~~ **division** may make regular site visits to quarry operations, as necessary, to determine compliance with the requirements of the operator's notification. On these visits the operator will make his or her quarry operation accessible to the ~~department~~ **division**.

(f) Upon receipt of notifications of intent, the ~~department~~ **division** will have ninety (90) days to respond to the operator by certified mail to errors or omissions, or both, in the notifications.

(g) On completion of a notification, the ~~department~~ **division** will issue the operator a notice which will be posted on quarry premises at all times when the quarry is in operation and which will state:

"Name of company has completed the requirements, as set out by the 'Arkansas Quarry Operation, Reclamation and Safe Closure Act' of 1997, and has the unconditional authorization to quarry at this site, so long as the quarry is in compliance with all laws and regulations for up to five (5) years."

(h) The ~~department~~ **division**, upon finding the operator to be out of compliance with the requirements of his or her "notification" may issue warnings, citations, and notices of default to the operator.

(i) All filings and other communication will be by certified mail.

(j)(1)(A) An operator will give notice to the public in a local newspaper of general circulation that he or she intends to open or reactivate a quarry.

(B)(i) The notification will be part of an operator's intent and will be published in the newspaper at the same time the intent is filed with the ~~department~~ **division**.

(ii) Proof of publication shall be provided to the ~~department~~ **division** in the operator's notice of intent.

(C) The notification will indicate the approximate location of the quarry using section, township, and range plus a road address or identifiable local landmarks when possible, the date of start up and the date the operator plans to temporarily close, if applicable, as well as the operator's name, address, phone number, and contact person.

(D) The notification shall state that interested parties may contact the ~~department~~ **division** for further information and that they have ten (10) days after publication of the notice to notify the ~~department~~ **division** of any request for a public meeting.

(2)(A) If the ~~department~~ **division** receives at least five (5) requests for a public meeting from owners of property within one-half (1/2) mile of the quarry, it may require that the operator hold a public meeting.

(B) This public meeting shall be held within two (2) weeks after the expiration of the ten-day public notice period.

(C) This public meeting shall be held in a location near the proposed quarry to allow the public to discuss their interests with the operator prior to start-up.

(3)(A) The operator will keep responses from the public on file for two (2) years.

(B) The ~~department~~ **division** will forward responses it receives to the operator.

(4) The operator will keep a record of all action taken resulting from public responses for two (2) years, notifying the ~~department~~ **division** of each action.

SECTION 3118. Arkansas Code § 15-57-404(a)(1)-(5), concerning notification of intent to quarry, are amended to read as follows:

<< AR ST § 15-57-404 >>

(a)(1) Except for operators of quarries excluded by § 15-57-403(b), any operator desiring to engage in quarrying shall complete a notification of intent to quarry which when submitted to the ~~Arkansas Department~~ **Division** of Environmental Quality by certified mail will entitle said operator to conduct quarry operations.

(2)(A) For all active quarries, as of January 1, 1998, a "notification of intent" must be on file or in process at the ~~department~~ **division**.

(B) For all new quarries to be opened after January 1, 1998, a notification of intent must be on file or in process at the ~~department~~ **division** before the operator may begin quarry operations.

(3) The notification shall be accompanied by the payment of a fee of two hundred fifty dollars (\$250).

(4) The submittal shall be an agreement between the operator and the ~~department~~ **division**.

(5) The operator shall pay an annual fee to the ~~department~~ **division** in the amount of twenty-five dollars (\$25.00) per acre of affected land, not to exceed one thousand dollars (\$1,000) per quarry.

SECTION 3119. Arkansas Code § 15–57–404(c) and (d), concerning notification of intent to quarry, are amended to read as follows:

<< AR ST § 15–57–404 >>

(c) All operators will have sixty (60) days to correct any errors or omissions to a notification of intent if notified by the ~~department~~ **division** that a notification of intent is incomplete.

(d) A fine of not more than one hundred dollars (\$100) per day, per citation, may be levied against an operator whose notification of intent is not completed and on file in the ~~department~~ **division** within sixty (60) days after receipt of notice by the ~~department~~ **division** of errors and omissions in the first filing. The maximum fine is five thousand dollars (\$5,000).

SECTION 3120. The introductory language of Arkansas Code § 15–57–405(a), concerning the notification of a temporarily closed quarry, is amended to read as follows:

<< AR ST § 15–57–405 >>

(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 3121. Arkansas Code § 15–57–405(b) and (c), concerning the notification of a temporarily closed quarry, are amended to read as follows:

<< AR ST § 15–57–405 >>

(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 3122. Arkansas Code § 15–57–406 is amended to read as follows:

<< AR ST § 15–57–406 >>

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.

SECTION 3123. Arkansas Code § 15-57-407(a), concerning the refiling of a notification, is amended to read as follows:

<< AR ST § 15-57-407 >>

(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 3124. The introductory language of Arkansas Code § 15-57-408(a), concerning the notification of an exhausted quarry, is amended to read as follows:

<< AR ST § 15-57-408 >>

(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 3125. Arkansas Code § 15-57-408(b)-(d), concerning the notification of an exhausted quarry, are amended to read as follows:

<< AR ST § 15-57-408 >>

(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.

SECTION 3126. Arkansas Code § 15-57-409(a), concerning the reclamation of land at an exhausted quarry site, is amended to read as follows:

<< AR ST § 15-57-409 >>

(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 3127. Arkansas Code § 15-57-409(b)(2), concerning the reclamation of land at an exhausted quarry site, is amended to read as follows:

<< AR ST § 15-57-409 >>

(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 3128. 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:

<< AR ST § 15-57-409 >>

(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 fine is in force for that period, then the ~~department~~ **division** will notify the operator that the operation is in default. The ~~department~~ **division** will then use the proceeds of the operator's forfeited bond to have the quarry site reclaimed as per the reclamation plan.

SECTION 3129. Arkansas Code § 15-57-410(5), concerning quarry site safety, is amended to read as follows:

<< AR ST § 15-57-410 >>

(5) After January 1, 1998, no active quarry wall will be closer than fifty feet (50#) from any private property line unless written permission is given by the adjacent property owner. Permission will be on file at the operator's office and a copy will be sent to the ~~Arkansas Department~~ **Division** of Environmental Quality;

SECTION 3130. Arkansas Code § 15-57-410(10) and (11), concerning quarry site safety, are amended to read as follows:

<< AR ST § 15-57-410 >>

(10) If the ~~Arkansas Department of Environmental Quality~~ **division** finds the operator to be out of compliance with any of the requirements of subdivisions (1), (2), and (3) of this section, a citation will be given to the operator to comply within ninety (90) days. If the operator fails to comply within the ninety-day time requirement or shows no effort to comply, the ~~department~~ **division** may levy by citation a fine of not more than one hundred dollars (\$100) per day until the operator complies with said requirements. The maximum fine is five thousand dollars (\$5,000); and

(11) Any operator quarrying in violation of subdivisions (4) and (5) of this section will be subject to an immediate assessment of a fine of not more than one hundred dollars (\$100) per day or a shut down order by the ~~Arkansas Department of Environmental Quality~~ **division**, or both. The order will stay in effect at the discretion of the ~~Arkansas Department of Environmental Quality~~ **division** until the operator is no longer in violation.

SECTION 3131. Arkansas Code § 15–57–411 is amended to read as follows:

<< AR ST § 15–57–411 >>

15–57–411. Complaints of violations of this subchapter.

(a) The operator is required to document and respond to complaints by neighbors and citizens as they relate to the requirements of this subchapter. A record of the complaints and responses will be kept on file at the quarry office or company office for a minimum of two (2) years and sent to the ~~Arkansas Department~~ **Division** of Environmental Quality.

(b) Any complaints received by the ~~department~~ **division** as they relate to this subchapter will be forwarded to the operator. The operator's response will be kept on file for future departmental review at the quarry office or the company office for a minimum of two (2) years.

(c) The ~~department~~ **division** shall investigate complaints by neighbors and citizens to determine if violations of this subchapter have occurred.

SECTION 3132. Arkansas Code § 15–57–412(b)(1), concerning quarry bonds, is amended to read as follows:

<< AR ST § 15–57–412 >>

(b)(1) As of January 1, 1998, the reclamation bond required for acceptance of an operator's notice of intent to open a quarry, or to reactivate a quarry, will be one thousand one hundred dollars (\$1,100) per acre of affected land. The face value of the bond will be evaluated every five (5) years by the operator and a representative of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3133. Arkansas Code § 15–57–412(e), concerning quarry bonds, is amended to read as follows:

<< AR ST § 15–57–412 >>

(e)(1) The operator may submit any of the following three (3) types of bonds or substitute security:

(A) A surety bond;

(B) A collateral bond with supporting collateral consisting of irrevocable letters of credit or certificates of deposit in favor of the ~~department~~ **division**; and

(C) A self bond with an unencumbered right to certain property to be held by the ~~department~~ **division**.

(2) Recommended bond forms shall be provided by the ~~department~~ **division**. A variation of the language in all but the self bond form may be acceptable, provided the requirements of the subchapter and this Code are incorporated and the ~~department~~ **division** approves the language.

(3) In the event self bonding is used, the following conditions apply:

(A) The applicant must use the self bond form provided by the ~~department~~ **division**;

(B) The collateral to be offered must be appraised by a licensed appraiser approved by the operator and the ~~department~~ **division**;

(C) The operator must have unencumbered ownership of the collateral and provide proof of such ownership to the department **division**;

(D) The value of the collateral as bond will be eighty percent (80%) of the fair market value of the collateral as established by the appraiser;

(E) Any collateral that decreases in value due to usage (rolling stock) will be not be acceptable;

(F) In the event the collateral consists of real property, an environmental audit of the area must be provided to the department **division**; and

(G) Where applicable, a lien will be filed against the collateral until the affected area is reclaimed and released by the Arkansas Pollution Control and Ecology Commission.

SECTION 3134. Arkansas Code § 15-57-413 is amended to read as follows:

<< AR ST § 15-57-413 >>

15-57-413. Hearing.

An operator may request and obtain an adjudicatory hearing and review by the Arkansas Pollution Control and Ecology Commission of any decision by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality to enforce the provisions of this subchapter, including any action to impose a civil penalty, stop quarrying activities, or forfeit a bond. The decision of the commission shall be final and may be appealed by the operator to the circuit court of the county in which the quarry is located in accordance with the Arkansas Code.

SECTION 3135. Arkansas Code § 15-57-414(a), concerning fees, fines, and forfeiture amounts collected by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15-57-414 >>

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality shall collect fees, fines, and bond forfeiture amounts pursuant to this subchapter.

SECTION 3136. Arkansas Code § 15-57-414(c), concerning fees, fines, and forfeiture amounts collected by the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15-57-414 >>

(c) The department **division** shall use these funds pursuant to this subchapter for contract awards for the reclamation of affected lands as required by this subchapter.

SECTION 3137. Arkansas Code § 15-58-102(3), concerning legislative findings under the Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read as follows:

<< AR ST § 15-58-102 >>

(3) Because surface coal mining in this state takes place in areas where the terrain, climate, biological, chemical, and other physical conditions are peculiar to this state and because the ~~Arkansas Department~~ **Division** of Environmental Quality is familiar with these conditions, the department **division** has the primary responsibility to develop, issue,

and enforce regulations for surface mining and reclamation operations in this state pursuant to this chapter and in compliance with applicable federal laws and regulations;

SECTION 3138. Arkansas Code § 15–58–104(4)–(6), concerning the definitions of “department”, “director”, and “fund” under the Arkansas Surface Coal Mining and Reclamation Act of 1979, are amended to read as follows:

<< AR ST § 15–58–104 >>

(4) “~~Department~~ **Division**” means the ~~Arkansas Department~~ **Division** of Environmental Quality or any department, bureau, commission, or agency that shall lawfully succeed to the powers and duties of that ~~department~~ **division**;

(5) “Director” means the executive head and active administrator of the ~~Arkansas Department~~ **Division** of Environmental Quality;

(6) “Fund” means the Abandoned Mine Reclamation Fund administrated by the **United States** Secretary of the Interior pursuant to the Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95–87. Moneys from the fund may be received by the ~~department~~ **division** through a grant from the **United States** Secretary of the Interior pursuant to the state abandoned mine reclamation program;

SECTION 3139. Arkansas Code § 15–58–104(13) and (14), concerning the definitions of “state program” and “state abandoned mine reclamation program” under the Arkansas Surface Coal Mining and Reclamation Act of 1979, are amended to read as follows:

<< AR ST § 15–58–104 >>

(13) “State program” means a program established by the ~~department~~ **division** and approved by the Secretary of the Interior pursuant to section 503 of the Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95–87, to regulate surface coal mining and reclamation operations on lands within the state;

(14) “State abandoned mine reclamation program” means a plan established by the ~~department~~ **division** and approved by the **United States** Secretary of the Interior pursuant to Title IV of the Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95–87, to reclaim mined areas of the state which were left without adequate reclamation prior to August 3, 1977;

SECTION 3140. Arkansas Code § 15–58–201 is amended to read as follows:

<< AR ST § 15–58–201 >>

15–58–201. ~~Department~~ **Division — Jurisdiction, powers, and duties.**

(a) The ~~Arkansas Department~~ **Division** of Environmental Quality is designated as the official agency whose duty it is to establish policies and guidelines, to administer the guidelines contained in this chapter, and to institute other reasonable regulations and guidelines as they become necessary pursuant to this chapter. The rules and regulations may provide differing terms and provisions for particular conditions, particular mining techniques, types of coal, particular areas of the state, surface mines, and the surface impacts of underground mines or any other differences which appear relevant and necessary so long as the action taken is consistent with attainment of the general intent and purposes of this chapter.

(b) Exclusive jurisdiction over those aspects of surface coal mining and reclamation operations in this state regulated by the Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87, shall be vested in the ~~department~~ **division**.

SECTION 3141. The introductory language of Arkansas Code § 15-58-203(a), concerning the powers and duties of the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15-58-203 >>

(a) The authority shall be vested in the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality and such other persons as designated by the director to administer and enforce the provisions of this chapter. The director shall seek the accomplishment of the purposes of this chapter by all practicable and economically feasible methods, and in doing so, shall have the following duties and powers:

SECTION 3142. Arkansas Code § 15-58-203(a)(13), concerning the powers and duties of the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15-58-203 >>

(13) To contract upon such terms as the director may agree upon for legal, financial, engineering, and other professional services necessary to expedite the conduct of the affairs of the ~~Arkansas Department~~ **Division** of Environmental Quality under the provisions of this chapter;

SECTION 3143. Arkansas Code § 15-58-205(a), concerning inspections by the Director of the Arkansas Department of Environmental Quality under the Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read as follows:

<< AR ST § 15-58-205 >>

(a) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality shall require such monitoring and reporting, shall cause to be made such inspections of any surface coal mining and reclamation operations, shall require the maintenance of such signs and markers, and shall take such other actions as are necessary to administer, enforce, and evaluate the administration of this chapter and to meet the state program requirements. For these purposes, the director or his or her authorized representatives, upon presentation of appropriate identifying credentials, shall have a right of entry to, upon, or through any surface coal mining and reclamation operations and, at reasonable times and without delay, may have access to and copy any records and inspect any monitoring equipment or method of operation required under this chapter or the regulations issued pursuant to this chapter.

SECTION 3144. Arkansas Code § 15-58-205(c)(2), concerning inspections by the Director of the Arkansas Department of Environmental Quality under the Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read as follows:

<< AR ST § 15-58-205 >>

(2) Any person who is or may be adversely affected by a surface coal mining operation may notify the director or the commission of any failure on behalf of the ~~Arkansas Department~~ **Division** of Environmental Quality to make proper inspections, after which the director, the commission, or their authorized representatives shall determine whether adequate and complete inspections have been made.

SECTION 3145. The introductory language of Arkansas Code § 15–58–207(a), concerning procedures and notice of public hearings by the Director of the Arkansas Department of Environmental Quality or the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 15–58–207 >>

(a) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or the Arkansas Pollution Control and Ecology Commission shall give public notice of each of the following pending, proposed, or requested actions:

SECTION 3146. Arkansas Code § 15–58–208(a), concerning an examiner to preside at hearings designated by the Arkansas Pollution Control and Ecology Commission or the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15–58–208 >>

(a) For the purpose of receiving and responding to written comments and objections and for presiding at a public hearing, the Arkansas Pollution Control and Ecology Commission or the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may designate one (1) or more examiners.

SECTION 3147. Arkansas Code § 15–58–211(c), concerning adjudicatory hearings and procedures of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 15–58–211 >>

(c) Nothing in this chapter shall prohibit disposition of the matter through an informal conference before the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality if all parties agree, or disposition by stipulation, settlement, consent order, or default.

SECTION 3148. Arkansas Code § 15–58–301(a), concerning cessation orders and violations deemed not to cause imminent danger or harm, is amended to read as follows:

<< AR ST § 15–58–301 >>

(a) If the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or his or her authorized representative determines on the basis of an inspection or other available information that a permittee is in violation of a requirement of this chapter or of the regulations issued pursuant to this chapter or a permit condition required by this chapter or the regulations issued pursuant to this chapter but the violation does not create an imminent danger to the health or safety of the public or is not causing or reasonably expected to cause significant imminent environmental harm to land, air, or water resources, the director or his or her authorized representative shall issue a notice of violation to the permittee or his or her agent fixing a reasonable time, but not more than ninety (90) days, for the abatement of the violation in accordance with the procedures set out in regulations issued by the Arkansas Pollution Control and Ecology Commission pursuant to this chapter.

SECTION 3149. Arkansas Code § 15–58–302(a), concerning cessation orders deemed to cause danger or harm, is amended to read as follows:

<< AR ST § 15–58–302 >>

(a) If the ~~Director of the Arkansas Department~~ **Division** of Environmental Quality or his or her authorized representative determines, on the basis of an inspection or other available information, that a condition or practice exists or that a permittee is in violation of a requirement of this chapter or of the regulations issued pursuant to this chapter or of a permit condition required by this chapter or the regulations issued pursuant to this chapter, and that this condition, practice, or violation also creates an imminent danger to the health or safety of the public or is causing or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources, the director or his or her authorized representative or agent shall immediately issue a cessation order in accordance with the procedures set out in regulations issued by the Arkansas Pollution Control and Ecology Commission pursuant to this chapter requiring the immediate termination of all surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation.

SECTION 3150. Arkansas Code § 15–58–303(a), concerning an order to show cause and a pattern of violations found by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15–58–303 >>

(a) On the basis of an inspection, if the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or his or her authorized agent has reason to believe that a pattern of violations of any requirements of this chapter or the regulations issued pursuant to this chapter or any permit conditions required by this chapter or by the regulations issued pursuant to this chapter exists or has existed and if the director or his or her authorized agent also finds that these violations are caused by the unwarranted failure of the permittee to comply with requirements of this chapter or permit conditions or that the violations are willfully caused by the permittee, the director or his or her authorized agent shall issue to the permittee forthwith an order to show cause as to why the permit should not be suspended or revoked in accordance with the procedures set out in regulations issued by the Arkansas Pollution Control and Ecology Commission pursuant to this chapter.

SECTION 3151. Arkansas Code § 15–58–305 is amended to read as follows:

<< AR ST § 15–58–305 >>

15–58–305. Interfering with the director or his or her agents — Criminal penalties.

Any person who shall, except as permitted by law, willfully resist, prevent, impede, or interfere with the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or any of his or her authorized representatives in the performance of duties pursuant to this chapter shall be guilty of a misdemeanor and may be punished upon conviction by a criminal penalty of not more than five thousand dollars (\$5,000) or by imprisonment for not more than one (1) year, or by both.

SECTION 3152. Arkansas Code § 15–58–308(a), concerning civil actions and injunctions undertaken by the Arkansas Pollution and Ecology Commission or the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15–58–308 >>

(a) The Arkansas Pollution Control and Ecology Commission or the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may request the Attorney General or an attorney designated by the director to institute without bond or other undertaking a civil action for relief against a permittee or any person engaging in surface coal mining operations without a permit, including an injunction, restraining order, or any other appropriate order in the county in which any part of the surface coal mining and reclamation operation involved is located, or in the county in which the

permittee has his or her principal office. No liability whatsoever shall accrue to the commission, the director, or their authorized representatives on taking any actions pursuant to this section.

SECTION 3153. Arkansas Code § 15–58–309(a)(2), concerning the private right of action against the State of Arkansas under the Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read as follows:

<< AR ST § 15–58–309 >>

(2) Against the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or the Arkansas Pollution Control and Ecology Commission where there is alleged a failure of the director or the commission to perform any act or duty under this chapter which is not discretionary with the director or with the commission.

SECTION 3154. Arkansas Code § 15–58–309(c)(2), concerning the private right of action against the State of Arkansas under the Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read as follows:

<< AR ST § 15–58–309 >>

(2) In any action under this section, the director, the commission, or the ~~Arkansas Department~~ **Division** of Environmental Quality, if not a party, may intervene as a matter of right.

SECTION 3155. Arkansas Code § 15–58–309(d)–(f), concerning the private right of action against the State of Arkansas under the Arkansas Surface Coal Mining and Reclamation Act of 1979, are amended to read as follows:

<< AR ST § 15–58–309 >>

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation, including attorney and expert witness fees, to any party whenever the court determines the award is appropriate. If a temporary restraining order or preliminary injunction is sought, the court may require the filing of a bond or equivalent security, provided that no bond shall be required if the temporary restraining order or preliminary injunction is sought by the director, the commission, or the ~~department~~ **division**.

(e) Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement of any of the provisions of this chapter and the regulations thereunder or to seek any other relief, including relief against the director, the commission, or the ~~department~~ **division**.

(f) Any person who is injured in his or her person or property through the violation by any operation of any rule, regulation, order, or permit issued pursuant to this chapter may bring an action for damages, including reasonable attorney and expert witness fees only in the judicial district in which the surface coal mining operation complained of is located. Nothing in this subsection shall affect the rights established by or limits imposed under the Workers' Compensation Law, § 11–9–101 et seq.

SECTION 3156. The introductory language of Arkansas Code § 15–58–401(b), concerning lands and water eligible for reclamation or drainage abatement expenditures, is amended to read as follows:

<< AR ST § 15–58–401 >>

(b) Notwithstanding subsection (a) of this section, lands and water similarly affected by coal mining or other mining processes and abandoned or left in an inadequate reclamation status after August 3, 1977, are also eligible for reclamation

or drainage abatement expenditures under this chapter if the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality makes either of the following findings:

SECTION 3157. The introductory language of Arkansas Code § 15-58-404(a), concerning abatement of adverse effects, and liens regarding the state abandoned mine reclamation program, is amended to read as follows:

<< AR ST § 15-58-404 >>

(a) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or his or her authorized representative, under the state abandoned mine reclamation program, shall make a finding of fact that:

SECTION 3158. Arkansas Code § 15-58-405(a), concerning the right of entry for an approved state abandoned mine reclamation program, is amended to read as follows:

<< AR ST § 15-58-405 >>

(a) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or his or her authorized representative pursuant to an approved state abandoned mine reclamation program shall have the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of the adverse effects.

SECTION 3159. The introductory language of Arkansas Code § 15-58-406(a), concerning condemnation of a mine by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15-58-406 >>

(a) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, personally or through his or her authorized legal representative, pursuant to an approved state abandoned mine reclamation program, may acquire for the state any land, by purchase, donation, or condemnation, which is adversely affected by past coal mining practices if the director determines that acquisition of such land is necessary to successful reclamation and that:

SECTION 3160. Arkansas Code § 15-58-502(b), concerning the necessity of a permit and application, is amended to read as follows:

<< AR ST § 15-58-502 >>

(b) No person shall engage in or carry out on lands within the state any surface coal mining operations unless that person has first obtained a permit issued by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality pursuant to this chapter and in accordance with the regulations issued pursuant to this chapter.

SECTION 3161. Arkansas Code § 15-58-503(a)(3)(A), concerning the power of the Arkansas Pollution Control and Ecology Commission under the Surface Mining Control and Reclamation Act of 1977, is amended to read as follows:

<< AR ST § 15-58-503 >>

(3)(A) The regulations shall specifically provide that all applications shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to

the hydrologic regime, quantity, and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding surface areas so that an assessment can be made by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability. However, this determination shall not be required until hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. The permit shall not be approved until the information is available and is incorporated into the application.

SECTION 3162. The introductory language of Arkansas Code § 15-58-503(a)(3)(B), concerning the power of the Arkansas Pollution Control and Ecology Commission under the Surface Mining Control and Reclamation Act of 1977, is amended to read as follows:

<< AR ST § 15-58-503 >>

(B) The costs of the following activities, which shall be performed by a qualified public or private laboratory or other public or private qualified entity designated by the ~~Arkansas Department~~ **Division** of Environmental Quality shall be borne, upon written request of the small operator, by the ~~department~~ **division** in accordance with regulations issued by the commission:

SECTION 3163. Arkansas Code § 15-58-503(a)(3)(B)(vii), concerning the power of the Arkansas Pollution Control and Ecology Commission under the Surface Mining Control and Reclamation Act of 1977, is amended to read as follows:

<< AR ST § 15-58-503 >>

(vii) The ~~department~~ **division** shall provide or assume the cost of training small operators concerning the preparation of permit applications and compliance with the regulatory program and shall ensure that small operators are aware of the assistance available under this subdivision (a)(2).

SECTION 3164. Arkansas Code § 15-58-503(a)(3)(C), concerning the power of the Arkansas Pollution Control and Ecology Commission under the Surface Mining Control and Reclamation Act of 1977, is amended to read as follows:

<< AR ST § 15-58-503 >>

(C) A coal operator that has received assistance pursuant to this subdivision (a)(2) shall reimburse the ~~department~~ **division** for the cost of the services rendered if the director finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand (300,000) tons during the twelve (12) months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.

SECTION 3165. Arkansas Code § 15-58-503(c), concerning the power of the Arkansas Pollution Control and Ecology Commission under the Surface Mining Control and Reclamation Act of 1977, is amended to read as follows:

<< AR ST § 15-58-503 >>

(c) The commission shall issue regulations to protect confidential information which is submitted to the ~~department~~ **division** as part of a permit application or pursuant to the coal exploration requirements.

SECTION 3166. Arkansas Code § 15–58–504(b), concerning coal exploration operations, is amended to read as follows:

<< AR ST § 15–58–504 >>

(b) Coal exploration regulations shall provide, at a minimum, that prior to conducting any exploration under this subchapter, any person must file with the ~~Arkansas Department~~ **Division** of Environmental Quality notice of intention to explore, and that no operator shall remove more than two hundred fifty (250) tons of coal pursuant to an exploration permit without the specific written approval of the ~~department~~ **division**.

SECTION 3167. Arkansas Code § 15–58–508(a), concerning fees of the Surface Coal Mining Operation Fund, is amended to read as follows:

<< AR ST § 15–58–508 >>

(a) Each application for a surface coal mining permit or renewal of that permit shall be accompanied by an initial application fee as determined by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality in accordance with a fee schedule which the Arkansas Pollution Control and Ecology Commission shall develop and issue by regulations.

SECTION 3168. Arkansas Code § 15–58–508(d), concerning fees of the Surface Coal Mining Operation Fund, is amended to read as follows:

<< AR ST § 15–58–508 >>

(d) The ~~Arkansas Department~~ **Division** of Environmental Quality shall maintain a separate Surface Coal Mining Operation Fund for the fees which may only be used for the administration and enforcement of this chapter and as the state's matching percentage share for any grants available to the state for the administration and enforcement of the state program.

SECTION 3169. Arkansas Code § 15–58–509(a) and (b), concerning the filing of performance bonds with the Arkansas Department of Environmental Quality, are amended to read as follows:

<< AR ST § 15–58–509 >>

(a) After a surface coal mining and reclamation permit application has been approved but before the permit is issued, the applicant shall file a bond with the ~~Arkansas Department~~ **Division** of Environmental Quality. This bond shall be on a form furnished by the ~~department~~ **division** in accordance with the regulations issued by the Arkansas Pollution Control and Ecology Commission. It shall be for performance or acceptable alternative payable, as appropriate, to the ~~department of~~ **division** and conditioned upon faithful performance of all the requirements of this chapter, the regulations issued pursuant to this chapter, and the permit.

(b) All forfeitures collected under this chapter shall be deposited into a separate Mining Reclamation Trust Fund which shall be maintained by the ~~department~~ **division**. The fund may only be used to accomplish reclamation of land covered by forfeitures of performance bonds.

SECTION 3170. Arkansas Code § 15–58–509(e), concerning the filing of performance bonds with the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 15–58–509 >>

(e) The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the ~~department~~ **division** in the event of forfeiture. In no case shall the bond for the entire area under one (1) permit be less than ten thousand dollars (\$10,000).

SECTION 3171. Arkansas Code § 15–71–104(a)(1), concerning counsel for the Oil and Gas Commission, is amended to read as follows:

<< AR ST § 15–71–104 >>

(a)(1) The Oil and Gas Commission, **in consultation with the Secretary of the Department of Energy and Environment**, may employ an attorney to provide specialized professional services in matters requiring legal representation.

SECTION 3172. Arkansas Code § 15–71–105(a) and (b), concerning the Director of Production and Conservation, are amended to read as follows:

<< AR ST § 15–71–105 >>

(a)(1) The Oil and Gas Commission may appoint one (1) Director of Production and Conservation.

(2) The appointment under subdivision (a)(1) of this section is with the approval of the Governor .

(3) The director serves at the pleasure of the Governor at the salary set by law.

(4) The director shall report to the Secretary of the Department of Energy and Environment.

(b) The commission **and the Secretary of the Department of Energy and Environment** may authorize the director to employ other assistants, petroleum and natural gas engineers, bookkeepers, auditors, gaugers, and stenographers and other employees as necessary to properly administer and enforce the provisions of this act.

SECTION 3173. Arkansas Code § 15–71–110(d)(16), concerning the powers and duties of the Oil and Gas Commission, is amended to read as follows:

<< AR ST § 15–71–110 >>

(16) To acquire primary enforcement responsibility either singularly or jointly with the ~~Arkansas Department~~ **Division** of Environmental Quality for the control of underground injection under the applicable provisions of the Safe Drinking Water Act, Pub. L. No. 93–523, as it existed on January 1, 2005;

SECTION 3174. Arkansas Code § 15–71–113(a), concerning the authority to acquire and maintain unmarked cars, is amended to read as follows:

<< AR ST § 15–71–113 >>

(a) In order to enable the Oil and Gas Commission to carry out its duties in the most effective and efficient manner, the commission is authorized, **in consultation with the Secretary of the Department of Energy and Environment**, to acquire and maintain for use by field personnel full-sized sedan automobiles equipped with V-8 engines in the 350 cubic inch displacement range, limited slip differentials, and vinyl seat covers.

SECTION 3175. Arkansas Code § 15-72-219(b)(1), concerning the compensation of surface owners and surface tenants for damages and restoration of land, is amended to read as follows:

<< AR ST § 15-72-219 >>

(1) ~~Arkansas Department~~ **Division** of Environmental Quality; or

SECTION 3176. The introductory language of Arkansas Code § 15-72-219(c), concerning the compensation of surface owners and surface tenants for damages and restoration of land, is amended to read as follows:

<< AR ST § 15-72-219 >>

(c) Any rules or regulations adopted by the ~~department~~ **division** or the commission pertaining to spills of crude oil or produced water shall:

SECTION 3177. Arkansas Code § 15-72-219(f), concerning the compensation of surface owners and surface tenants for damages and restoration of land, is amended to read as follows:

<< AR ST § 15-72-219 >>

(f) Nothing contained in this section is intended to limit or restrict the rights of any surface owner or surface tenant to maintain a cause of action for any damage to real property that is not addressed by the rules and regulations adopted by the ~~department~~ **division** or the commission pertaining to spills of crude oil or produced water.

SECTION 3178. Arkansas Code § 15-72-802(1), concerning the definition of “assignment” under the Emergency Petroleum Set-Aside Act, is amended to read as follows:

<< AR ST § 15-72-802 >>

(1) “Assignment” means an action taken by the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality, designating that a prime supplier of petroleum products supply them to an authorized consumer, wholesale purchaser-consumer, or wholesale purchaser-reseller to facilitate relief of emergency or hardship needs, pursuant to § 15-72-804;

SECTION 3179. Arkansas Code § 15-72-802(9), concerning the definition of “set-aside” under the Emergency Petroleum Set-Aside Act, is amended to read as follows:

<< AR ST § 15-72-802 >>

(9) “Set-aside” means, with respect to a particular prime supplier, the amount of a petroleum product which is made available from the total supply of a prime supplier, pursuant to the provisions of § 15-72-804, for utilization by the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality to resolve emergencies and hardships due to shortages or other dislocations in petroleum products distribution systems; and

SECTION 3180. Arkansas Code § 15–72–804(a)(2), concerning the establishment of the state emergency petroleum set-aside general provisions, is amended to read as follows:

<< AR ST § 15–72–804 >>

(2) The rules shall direct prime suppliers and brokers to set aside a percentage of petroleum products that are delivered to suppliers in the state for the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality to distribute to meet emergency and hardship needs.

SECTION 3181. Arkansas Code § 15–75–206 is amended to read as follows:

<< AR ST § 15–75–206 >>

15–75–206. Personnel — Counsel.

(a)(1) The Liquefied Petroleum Gas Board shall appoint a Director of the Liquefied Petroleum Gas Board to serve with the approval and at the pleasure of the Governor.

(2) The director shall report to the Secretary of the Department of Energy and Environment.

(b) The director shall have the authority, *in consultation with the secretary*, to:

(1) Employ assistants, inspectors, and other personnel; and

(2) Retain counsel as may be necessary to aid it properly in the administration of this subchapter, with the approval of the board.

(c)(1)(A) The director shall have the power and duty to receive applications and to review and approve applications for all classes of permits after applications and supporting papers have been on file for at least thirty (30) days.

(B) The director may issue class one permits once all conditions or prerequisites have been met as set out in § 15–75–307 and the application has been approved by the board.

(C) The director may issue all class two through class ten permits after all conditions and prerequisites have been met as set out in §§ 15–75–308 — 15–75–317.

(2) The director may refuse to approve applications for permits for safety reasons.

(d) The director's decisions on the approval of the applications for class one permits shall be reviewed by the board at its next regularly scheduled meeting.

SECTION 3182. Arkansas Code § 15–75–301(2), concerning the definition of “director” under the Liquefied Petroleum Gas Board laws, is repealed.

<< AR ST § 15–75–301 >>

(2) ~~“Director” means the Director of the Liquefied Petroleum Gas Board appointed by the board and serving with the approval and at the pleasure of the Governor; and~~

SECTION 3183. Arkansas Code § 15-76-324 is amended to read as follows:

<< AR ST § 15-76-324 >>

15-76-324. Arkansas Department Division of Environmental Quality.

(a) Nothing contained in this subchapter shall affect the jurisdiction of the ~~Arkansas Department~~ **Division** of Environmental Quality over owners or producers of brine or the processing and disposal of brine with respect to water or air pollution control or other matters within its jurisdiction or the requirement that owners, producers, and processors apply for and obtain a permit from the ~~department~~ **division** as provided by the Arkansas Water and Air Pollution Control Act, as amended, § 8-4-101 et seq.

(b) Nothing contained in this subchapter confers upon the Arkansas Pollution Control and Ecology Commission any authority or jurisdiction conferred by law upon the ~~department~~ **division** or shall be deemed to amend the Arkansas Water and Air Pollution Control Act, as amended, § 8-4-101 et seq.

SECTION 3184. Arkansas Code § 17-29-313(a)(2)(B)(ii)(b), concerning the requirement of a permit to construct or operate a crematorium, is amended to read as follows:

<< AR ST § 17-29-313 >>

(b) A copy of the permit issued by the ~~Arkansas Department~~ **Division** of Environmental Quality under § 8-4-203 to construct the crematorium; and

SECTION 3185. Arkansas Code § 17-44-108(b)(2), concerning a license requirement for all scrap metal recyclers, is amended to read as follows:

<< AR ST § 17-44-108 >>

(2) Show proof of a required national pollution discharge elimination system stormwater permit issued by the ~~Arkansas Department~~ **Division** of Environmental Quality; and

SECTION 3186. Arkansas Code § 18-15-1703(e)(2), concerning an application and taking of real property, is amended to read as follows:

<< AR ST § 18-15-1703 >>

(2) Laws or rules within the jurisdiction of the State Health Officer or regulatory activities of the Arkansas Pollution Control and Ecology Commission, the ~~Arkansas Department~~ **Division** of Environmental Quality, the Arkansas Livestock and Poultry Commission, the Arkansas Public Service Commission, or the State Plant Board under delegated or authorized programs or approved plans under federal law;

SECTION 3187. Arkansas Code § 19-5-930(b), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows:

<< AR ST § 19-5-930 >>

(b) The Hazardous Substance Remedial Action Trust Fund shall consist of all moneys appropriated by the General Assembly to the Hazardous Substance Remedial Action Trust Fund, gifts, donations, interest earnings, fees on the generation of hazardous waste, punitive damages, penalties, and any other moneys legally designated, with the exception of those moneys deposited into the Environmental Education Fund as set out in § 8-7-509(d), all moneys received as penalties under §§ 8-4-101 — 8-4-106, 8-4-201 — 8-4-229, 8-4-301 — 8-4-313, 8-6-201 — 8-6-212, 8-6-213 [repealed], 8-6-214, 8-7-201 — 8-7-226, 8-7-504, and 20-27-1001 — 20-27-1007, and all punitive damages collected under § 8-7-517, there to be administered by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality as provided in § 8-7-509.

SECTION 3188. Arkansas Code § 19-5-959(b), concerning the Petroleum Storage Tank Trust Fund, is amended to read as follows:

<< AR ST § 19-5-959 >>

(b) The Petroleum Storage Tank Trust Fund shall consist of the petroleum environmental assurance fees as provided in § 8-7-906, all other fees assessed under the Petroleum Storage Tank Trust Fund Act, § 8-7-901 et seq., gifts, grants, donations, such other funds made available by the General Assembly, the excess of a reserve of two (2) months requirements of debt service from fees in the Petroleum Storage Tank Trust Fund Revenue Bond Debt Service Fund under § 15-5-1206 and any moneys recovered by the ~~Arkansas Department~~ **Division** of Environmental Quality which are attributable to collections of civil penalties under § 8-7-806 or to costs under § 8-7-807 not owed the Regulated Substance Storage Tank Program Fund, there to be administered by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality, who shall make disbursements from the Petroleum Storage Tank Trust Fund as authorized by the Petroleum Storage Tank Trust Fund Act, § 8-7-901 et seq.

SECTION 3189. Arkansas Code § 19-5-961(b), concerning the Solid Waste Management and Recycling Fund, is amended to read as follows:

<< AR ST § 19-5-961 >>

(b) The fund shall consist of those special revenues specified in §§ 19-6-301(154) and 19-6-301(240), reimbursement of funds pursuant to § 8-6-610, federal funds which may become available, interest earnings, gifts, donations, and any other funds made available by the General Assembly, there to be administered by the ~~Arkansas Department~~ **Division** of Environmental Quality as set out in the Solid Waste Management and Recycling Fund Act, § 8-6-601 et seq.

SECTION 3190. Arkansas Code § 19-5-979(b), concerning the Landfill Post-Closure Trust Fund, is amended to read as follows:

<< AR ST § 19-5-979 >>

(b) The fund shall consist of those special revenues as specified in § 19-6-301(167), federal funds, interest earned, and any gifts or donations, there to be used solely for the administration of and for landfill post-closure corrective action as administered by the ~~Arkansas Department~~ **Division** of Environmental Quality as set out in § 8-6-1001 et seq., and shall not be appropriated for any other purpose.

SECTION 3191. Arkansas Code § 19–5–983(b)(2), concerning the Land Reclamation Fund, is amended to read as follows:

<< AR ST § 19–5–983 >>

(2) The fund shall be used for the reclamation of affected lands as administered by the ~~Arkansas Department~~ **Division** of Environmental Quality as set out in the Arkansas Open–Cut Land Reclamation Act, § 15–57–301 et seq., and for contract awards for affected lands as required by the Arkansas Quarry Operation, Reclamation, and Safe Closure Act, § 15–57–401 et seq.

SECTION 3192. Arkansas Code § 19–5–1027(b), concerning the Environmental Education Fund, is amended to read as follows:

<< AR ST § 19–5–1027 >>

(b) The Environmental Education Fund shall consist of that portion of moneys transferred, not to exceed two hundred seventy-five thousand dollars (\$275,000) per fiscal year, from the Hazardous Substance Remedial Action Trust Fund as set out in § 8–7–509, there to be used by the ~~Arkansas Department~~ **Division** of Environmental Quality to provide environmental educational materials and training.

SECTION 3193. Arkansas Code § 19–5–1028(b), concerning the Abandoned Mine Reclamation Fund, is amended to read as follows:

<< AR ST § 19–5–1028 >>

(b) The fund shall consist of moneys received through a grant from the United States Secretary of the Interior pursuant to the State Abandoned Mine Reclamation Program, there to be used by the ~~Arkansas Department~~ **Division** of Environmental Quality for that program.

SECTION 3194. Arkansas Code § 19–5–1029(b), concerning the Surface Coal Mining Operation Fund, is amended to read as follows:

<< AR ST § 19–5–1029 >>

(b) The fund shall consist of application and permit fees for surface coal mining, there to be used by the ~~Arkansas Department~~ **Division** of Environmental Quality only for the administration and enforcement of the Arkansas Surface Coal Mining and Reclamation Act of 1979, § 15–58–101 et seq., and as the state's matching percentage share for any grants available to the state for the administration and enforcement of the state program as defined in § 15–58–104.

SECTION 3195. Arkansas Code § 19–5–1102(b), concerning the Performance Partnership Trust Fund, is amended to read as follows:

<< AR ST § 19–5–1102 >>

(b) The Performance Partnership Trust Fund shall be used by the ~~Arkansas Department~~ **Division** of Environmental Quality to defray the costs of developing and implementing a management organization utilizing the principles of the National Environmental Performance Partnership System, advocated by the United States Environmental Protection

Agency, which integrates environmental indicators, management information, and performance-based budgeting and accounting to measure agency performance.

SECTION 3196. Arkansas Code § 19–5–1105(b)(2), concerning the Small Business Revolving Loan Fund, is amended to read as follows:

<< AR ST § 19–5–1105 >>

(2) The Small Business Revolving Loan Fund shall be administered by the ~~Arkansas Department~~ **Division** of Environmental Quality and used exclusively for those purposes set out in the Small Business Revolving Loan Fund for Pollution Control and Prevention Technologies Act, § 8–5–801 et seq.

SECTION 3197. Arkansas Code § 19–5–1111 is amended to read as follows:

<< AR ST § 19–5–1111 >>

19–5–1111. ADEQ Environmental Settlement Trust Fund.

There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, the “~~ADEQ~~ Environmental Settlement Trust Fund” to consist of funds received by the State of Arkansas pursuant to settlement agreements for environmental or natural resources damages, interest earnings, and any other moneys designated to be deposited into the fund, there to be administered by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3198. Arkansas Code § 19–5–1137 is amended to read as follows:

<< AR ST § 19–5–1137 >>

19–5–1137. ~~Arkansas Department~~ **Division of Environmental Quality Fee Trust Fund.**

The ~~Arkansas Department~~ **Division** of Environmental Quality Fee Trust Fund shall consist of those special revenues as specified in § 19–6–301(104), there to be used to defray the costs of operating the ~~Arkansas Department~~ **Division** of Environmental Quality as set out in §§ 8–1–101 — 8–1–107.

SECTION 3199. Arkansas Code § 19–5–1140(c), concerning the Water Performance Bond Fund, is amended to read as follows:

<< AR ST § 19–5–1140 >>

(c) The fund shall be used by the ~~Arkansas Department~~ **Division** of Environmental Quality to hire a third-party contractor to:

- (1) Take remedial action, including without limitation corrective action, the closure of a nonmunicipal domestic sewage treatment works, and any other action the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality determines to be necessary; or
- (2) Maintain and operate a nonmunicipal domestic sewage treatment works.

SECTION 3200. Arkansas Code § 19–5–1142(c), concerning the Nonmunicipal Domestic Sewage Treatment Works Trust Fund, is amended to read as follows:

<< AR ST § 19-5-1142 >>

(c)(1) The fund shall be used by the ~~Arkansas Department~~ **Division** of Environmental Quality to ensure adequate operation, maintenance, and completed closure of a nonmunicipal domestic sewage treatment works if the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality determines that an owner or operator has not adequately operated, maintained, or completed closure of the nonmunicipal domestic sewage treatment works.

(2) If the director determines that an owner or operator has not adequately operated, maintained, or completed closure of the nonmunicipal domestic sewage treatment works, the ~~department~~ **division** may use moneys in the fund to hire a third-party contractor to:

(A) Take remedial action, including without limitation corrective action;

(B) Initiate or complete the closure of a nonmunicipal domestic sewage treatment works;

(C) Maintain and operate a nonmunicipal domestic sewage treatment works; or

(D) Take any other action the director determines to be necessary to carry out the purposes of this section and § 8-4-203(b).

(3) The fund may be used by the ~~Arkansas Department of Environmental Quality~~ **division** to do the following:

(A) Provide reimbursement to a nonmunicipal domestic sewage treatment works under § 8-4-203(b);

(B) Provide technical support to nonmunicipal domestic sewage treatment works to promote adequate operation, maintenance, or completed closure of a facility; and

(C) Pay reasonable costs and expenses of the ~~department~~ **division** for administering the Nonmunicipal Domestic Sewage Treatment Works Trust Fund.

SECTION 3201. Arkansas Code § 19-5-1148(b)(3)(C), concerning the Used Tire Recycling Fund, is amended to read as follows:

<< AR ST § 19-5-1148 >>

(C) Seven percent (7%) deducted from the proceeds of fees imposed under § 8-9-404 and deposited into the ~~Arkansas Department~~ **Division** of Environmental Quality Fee Trust Fund under § 8-9-404(b)(1)(B), § 8-9-404(c)(3)(A)(ii), and § 8-9-404(d)(7)(B).

SECTION 3202. Arkansas Code § 19-5-1148(c), concerning the Used Tire Recycling Fund, is amended to read as follows:

<< AR ST § 19-5-1148 >>

(c)(1) At least ninety percent (90%) of the moneys available in the Used Tire Recycling Fund each fiscal year shall be used by the ~~Arkansas Department~~ **Division** of Environmental Quality to provide reimbursements to used tire programs, to administer the Used Tire Recycling and Accountability Program, and to perform other duties under the Used Tire Recycling and Accountability Act, § 8-9-401 et seq.

(2) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality may use not more than ten percent (10%) of the moneys available in the Used Tire Recycling Fund each fiscal year:

- (A) For waste tire site abatement aid;
- (B) For the development, implementation, and maintenance of the electronic uniform used tire manifest system; and
- (C) To provide market and economic stimulus incentives.

SECTION 3203. The introductory language of Arkansas Code § 19-5-1217(b), concerning the Computer and Electronic Recycling Fund, is amended to read as follows:

<< AR ST § 19-5-1217 >>

(b) The fund shall be administered by the ~~Arkansas Department~~ **Division** of Environmental Quality and may be used to:

SECTION 3204. Arkansas Code § 19-5-1249(c), concerning the Alternative Motor Fuel Development Fund, is amended to read as follows:

<< AR ST § 19-5-1249 >>

(c) The fund shall be used by the ~~Arkansas Department~~ **Division** of Environmental Quality to provide rebates and incentives under the Arkansas Alternative Motor Fuel Development Act, § 15-10-901 et seq.

SECTION 3205. Arkansas Code § 19-6-434 is amended to read as follows:

<< AR ST § 19-6-434 >>

19-6-434. Hazardous Waste Permit Fund.

The Hazardous Waste Permit Fund shall consist of those special revenues as specified in § 19-6-301(59) and (237) there to be used by the ~~Arkansas Department~~ **Division** of Environmental Quality to ensure the proper administration and enforcement of §§ 8-7-201 — 8-7-226 and the Phase I Environmental Site Assessment Consultant Act, § 8-7-1301 et seq.

SECTION 3206. Arkansas Code § 19-6-452 is amended to read as follows:

<< AR ST § 19-6-452 >>

19-6-452. Asbestos Control Fund.

The Asbestos Control Fund shall consist of the special revenues specified in § 19-6-301(130) and any other revenues authorized by law, there to be used to administer and enforce a program for licensing contractors engaged in the removal of friable asbestos materials from facilities by the ~~Arkansas Department~~ **Division** of Environmental Quality under §§ 20-27-1001 — 20-27-1007.

SECTION 3207. Arkansas Code § 19-6-471 is amended to read as follows:

<< AR ST § 19-6-471 >>

19–6–471. Marketing Recyclables Program Fund.

The Marketing Recyclables Program Fund shall consist of those special revenues as specified in § 19–6–301(162), there to be used by the Compliance Advisory Panel for the Marketing Recyclables Program for the administration and performance of its duties, as administered by the ~~Arkansas Department~~ **Division** of Environmental Quality under § 8–9–201 et seq.

SECTION 3208. Arkansas Code § 19–11–1207(a), concerning the administration of the Guaranteed Energy Cost Savings Act, is amended to read as follows:

<< AR ST § 19–11–1207 >>

(a) The Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality shall administer this subchapter.

SECTION 3209. Arkansas Code § 20–80–302 is amended to read as follows:

<< AR ST § 20–80–302 >>

20–80–302. Purpose.

(a) The purpose of this subchapter is to encourage nonprofit community action organizations which have been formed to provide basic and essential human services to low income and elderly citizens of Arkansas in the areas of health, transportation, housing, home repair and weatherization, aging programs and aging alternatives to institutionalization, developmental child care and enrichment, youth opportunity programs, ~~low-income home energy assistance programs,~~ and other related activities which the General Assembly recognizes as beneficial to a large number of Arkansas citizens.

(b) It is further the purpose of this subchapter to encourage and promote the operations and activities of community action agencies whether the activities are conducted by one (1) agency or by two (2) or more cooperating agencies.

SECTION 3210. Arkansas Code § 20–27–1001 is amended to read as follows:

<< AR ST § 20–27–1001 >>

20–27–1001. Purpose.

The purpose of this subchapter is to protect the public health and safety and the environment and to qualify the ~~Arkansas Department~~ **Division** of Environmental Quality to adopt, administer, and enforce a program for licensing training providers involved with the training of regulated asbestos professionals, for licensing asbestos abatement consultants and asbestos abatement contractors, and for certifying air monitors, contractor-supervisors, inspectors, management planners, project designers, and workers involved with demolitions, renovations, and asbestos-response actions in which regulated asbestos-containing materials are disturbed in accordance with this subchapter, the Arkansas Water and Air Pollution Control Act, § 8–4–101 et seq., and regulations issued pursuant thereto.

SECTION 3211. Arkansas Code § 20–27–1003(6), concerning the definition of “certificate” under the laws regarding removal of asbestos material, is amended to read as follows:

<< AR ST § 20–27–1003 >>

(6) “Certificate” means a document issued by the ~~Arkansas Department~~ **Division** of Environmental Quality to any person certifying that that person has satisfactorily completed asbestos training, examination, and other requirements established by the ~~department~~ **division** to perform the duties of the following:

- (A) Air monitor;
- (B) Contractor/supervisor;
- (C) Inspector;
- (D) Management planner;
- (E) Project designer; and
- (F) Worker;

SECTION 3212. Arkansas Code § 20–27–1003(9) and (10), concerning the definition of “department” and “director” under the laws regarding removal of asbestos material, are repealed.

<< AR ST § 20–27–1003 >>

(9) “Department” means the ~~Arkansas Department of Environmental Quality~~;

(10) “Director” means the ~~Director of the Arkansas Department of Environmental Quality~~;

SECTION 3213. Arkansas Code § 20–27–1003(15), concerning the definition of “license” under the laws regarding removal of asbestos material, is amended to read as follows:

<< AR ST § 20–27–1003 >>

(15) “License” means a document issued by the ~~department~~ **Division of Environmental Quality** to an asbestos abatement contractor, asbestos abatement consultant, or training provider who meets the criteria for licensing as established by the ~~department~~ **division**;

SECTION 3214. Arkansas Code § 20–27–1003(24), concerning the definition of “training provider” under the laws regarding removal of asbestos material, is amended to read as follows:

<< AR ST § 20–27–1003 >>

(24) “Training provider” means any person or other legal entity, however organized, that conducts some or all of the training programs for asbestos professional disciplines which are regulated by the ~~department~~ **division**; and

SECTION 3215. The introductory language of Arkansas Code § 20–27–1004, concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 20–27–1004 >>

The ~~Arkansas Department~~ **Division** of Environmental Quality shall be charged with the responsibility of administering and enforcing this subchapter and is given and charged with the following powers and duties:

SECTION 3216. Arkansas Code § 20–27–1005 is amended to read as follows:

<< AR ST § 20–27–1005 >>

20–27–1005. Procedures.

The procedures of the ~~Arkansas Department~~ **Division** of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for issuance of rules and regulations, conduct of hearings, notice, power of subpoena, review of action on licenses, right of appeal, presumptions, finality of actions, and related matters shall be as provided in the Arkansas Water and Air Pollution Control Act, § 8–4–101 et seq., including, but not limited to, §§ 8–4–205, 8–4–210, 8–4–212 — 8–4–214, and 8–4–218 — 8–4–229.

SECTION 3217. Arkansas Code § 20–27–1006 is amended to read as follows:

<< AR ST § 20–27–1006 >>

20–27–1006. License required — Exceptions.

(a) Any asbestos abatement consultant or asbestos abatement contractor shall obtain a license under this section from the ~~Arkansas Department~~ **Division** of Environmental Quality prior to actively engaging in any asbestos demolition, renovation, or asbestos response action, and any training provider shall obtain a license under this section from the ~~department~~ **division** before actively engaging in any asbestos training as provided by this subchapter.

(b)(1) The application for license shall be made in the manner and form required by the ~~department~~ **division**. An application for license or renewal of a license shall be accompanied by proof of liability insurance coverage in the form and amount required by the ~~department~~ **division** and proof of training and examination as required by the ~~department~~ **division**.

(2) Training providers shall not be required to furnish proof of liability insurance coverage under subdivision (b)(1) of this section.

(c)(1) The ~~department~~ **division** shall license all applicants for licenses under this subchapter who satisfy the requirements of this subchapter.

(2) Licenses shall be valid for a period of one (1) year.

(3) Licenses shall be renewable upon application and upon satisfying the renewal requirements of the ~~department~~ **division**.

(d) State and federal governments and subdivisions thereof shall be exempt, except for training providers, from the license requirements of this section.

SECTION 3218. Arkansas Code § 20–27–1007(1), concerning prohibited actions regarding asbestos, is amended to read as follows:

<< AR ST § 20–27–1007 >>

(1) To conduct:

(A) Asbestos response actions, demolitions, or renovations without having first obtained a license from the ~~Arkansas Department~~ **Division** of Environmental Quality when acting as an asbestos abatement consultant or as an asbestos abatement contractor;

(B) Training without having first obtained a license from the ~~department~~ **division** when acting as an asbestos training provider; or

(C) Asbestos response actions, demolitions, or renovations without having first obtained certification from the ~~department~~ **division** when acting as a clearance air monitor, contractor/supervisor, inspector, management planner, project designer, or worker;

SECTION 3219. Arkansas Code § 20–27–1008(a), concerning the limitation on grant funds of the Asbestos Abatement Grant Program, is amended to read as follows:

<< AR ST § 20–27–1008 >>

(a) There is created within the ~~Arkansas Department~~ **Division** of Environmental Quality the Asbestos Abatement Grant Program, which shall be used to provide financial assistance to an eligible city or county to be used exclusively for the purpose of one (1) or more stabilization and abatement activities as provided in this subchapter.

SECTION 3220. Arkansas Code § 20–27–1009(a)(1), concerning grant eligibility and distribution of grant funds from the Asbestos Abatement Grant Program, is amended to read as follows:

<< AR ST § 20–27–1009 >>

(a)(1) A city or county with a population of less than fifty thousand (50,000) according to the most recent federal decennial census may apply to the ~~Arkansas Department~~ **Division** of Environmental Quality for grant funds to be used under this subchapter.

SECTION 3221. The introductory language of Arkansas Code § 20–27–1009(b), concerning grant eligibility and distribution of grant funds from the Asbestos Abatement Grant Program, is amended to read as follows:

<< AR ST § 20–27–1009 >>

(b) To be eligible to receive grant funds under this subchapter, a city or county shall certify the following information to the ~~department~~ **division** in the form required by the ~~department~~ **division** for grant applications under this subchapter:

SECTION 3222. Arkansas Code § 20–27–1009(c), concerning grant eligibility and distribution of grant funds from the Asbestos Abatement Grant Program, is amended to read as follows:

<< AR ST § 20–27–1009 >>

(c) When the ~~department~~ **division** approves a grant application received under this section, the ~~department~~ **division** shall distribute grant funds based on the available moneys dedicated to the Asbestos Abatement Grant Program in the Asbestos Control Fund according to procedures established by the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3223. Arkansas Code § 20–27–1010(2), concerning costs eligible for Asbestos Abatement Grant Program funds, is amended to read as follows:

<< AR ST § 20–27–1010 >>

(2) If the ~~Arkansas Department~~ **Division** of Environmental Quality determines that an asbestos emergency exists that constitutes an immediate threat to human health or the environment, the costs associated with the stabilization and remediation of the emergency asbestos conditions.

SECTION 3224. The introductory language of Arkansas Code § 20–27–1011(a), concerning the grant requirements and the return of unused funds regarding the Asbestos Abatement Grant Program, is amended to read as follows:

<< AR ST § 20–27–1011 >>

(a) Within thirty (30) days of receiving grant funds under this subchapter, a city or county shall provide a report to the ~~Arkansas Department~~ **Division** of Environmental Quality that includes the following:

SECTION 3225. Arkansas Code § 20–27–1011(b)(1) and (2), concerning the grant requirements and the return of unused funds regarding the Asbestos Abatement Grant Program, are amended to read as follows:

<< AR ST § 20–27–1011 >>

(1) Notify the ~~department~~ **division** of the date the city or county expects the stabilization and abatement activity to be complete; and

(2) Continue to report its progress to the ~~department~~ **division** every fourteen (14) days until the approved stabilization and abatement activity is complete and the requirements of this section are met.

SECTION 3226. Arkansas Code § 20–27–1011(c), concerning the grant requirements and the return of unused funds regarding the Asbestos Abatement Grant Program, is amended to read as follows:

<< AR ST § 20–27–1011 >>

(c)(1) A city or county that receives grant funds under this subchapter shall immediately return to the ~~department~~ **division** any unused portion of the grant funds when the stabilization and abatement activity is complete.

(2) The ~~department~~ **division** shall deposit any unused grant funds returned to the ~~department~~ **division** by a city or county under subdivision (c)(1) of this section into the Asbestos Control Fund to be used exclusively for the Asbestos Abatement Grant Program.

SECTION 3227. Arkansas Code § 20–27–1103(1), concerning an exception for blasting conducted at a surface coal mine or if regulated by the Oil and Gas Commission, is amended to read as follows:

<< AR ST § 20–27–1103 >>

(1) Blasting conducted at a surface coal mine regulated by the ~~Arkansas Department~~ **Division** of Environmental Quality pursuant to the Arkansas Surface Coal Mining and Reclamation Act of 1979, § 15–58–101 et seq.; and

SECTION 3228. The introductory language of Arkansas Code § 22-3-2003(b)(1), concerning the Sustainable Energy-Efficient Buildings Program, is amended to read as follows:

<< AR ST § 22-3-2003 >>

(1) For public agencies, the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality shall develop and:

SECTION 3229. The introductory language of Arkansas Code § 22-3-2006(a), concerning a program to manage the energy usage of public agencies, is amended to read as follows:

<< AR ST § 22-3-2006 >>

(a) The Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality shall:

SECTION 3230. The introductory language of Arkansas Code § 22-3-2006(b), concerning a program to manage the energy usage of public agencies, is amended to read as follows:

<< AR ST § 22-3-2006 >>

(b) To implement its plan, the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality shall to the extent funds are available:

SECTION 3231. Arkansas Code § 22-3-2006(c), concerning a program to manage the energy usage of public agencies, is amended to read as follows:

<< AR ST § 22-3-2006 >>

(c) The Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality may adopt architectural and engineering standards to implement this section.

SECTION 3232. Arkansas Code § 22-3-2007(4), concerning the application of energy conservation plans to historic and unique buildings, is amended to read as follows:

<< AR ST § 22-3-2007 >>

(4) A building that the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality has exempted from this subchapter because of its unique architectural characteristics or usage.

SECTION 3233. Arkansas Code § 22-3-2008 is amended to read as follows:

<< AR ST § 22-3-2008 >>

**22-3-2008. Advisory committee for the Arkansas Energy Office
of the ~~Arkansas Department~~ **Division** of Environmental Quality.**

(a)(1) The Director of the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality shall create and recommend members for a sustainable, energy-efficient building advisory committee composed of:

(A) Representatives from the design and construction industry who are involved in public works contracting;

(B) Persons from public agencies who are responsible for overseeing public works projects or for developing energy efficiency programs and policies; and

(C) Other persons that the Director of the Arkansas Energy Office of the ~~Arkansas Department of Environmental Quality~~ considers to have useful information.

(2)(A) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality shall approve the creation and membership recommendations under this section.

(B) The committee members shall serve at the pleasure of the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality.

(b) The committee shall provide advice on the implementation of this subchapter, including without limitation recommendations regarding:

(1) An education and training process for persons who are involved in the implementation of this subchapter;

(2) An ongoing evaluation or feedback process to help the Arkansas Energy Office of the ~~Arkansas Department of Environmental Quality~~ to implement this section; and

(3) Water-deficiency requirements and energy-efficiency requirements.

SECTION 3234. The introductory language of Arkansas Code § 22-3-2009(b), concerning regulations for energy conservation measures in public buildings by the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

<< AR ST § 22-3-2009 >>

(b) The Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality shall:

SECTION 3235. The introductory language of Arkansas Code § 22-3-2010(a), concerning a performance review and report by the Arkansas Energy Office of the Arkansas Department of Environmental Quality, is amended to read as follows:

<< AR ST § 22-3-2010 >>

(a) The Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality, to the extent funds are available, shall conduct a performance review of the Sustainable Energy-Efficient Buildings Program that includes at least the following:

SECTION 3236. Arkansas Code § 22-3-2011(b), concerning the applicability of energy conservation in public buildings, is amended to read as follows:

<< AR ST § 22-3-2011 >>

(b)(1) The board of trustees of any institution of higher education that is not included under subsection (a) of this section may be exempted from the provisions of this subchapter by the ~~Department~~ **Division** of Higher Education.

(2) Before granting an exemption to a board of trustees of an institution of higher education under subdivision (b)(1) of this section, the ~~department~~ **Division of Higher Education** shall review and approve the policies and procedures to meet the specific performance criteria and goals for a major facility or major renovation.

SECTION 3237. Arkansas Code § 22-3-2011(c)(1), concerning the applicability of energy conservation in public buildings, is amended to read as follows:

<< AR ST § 22-3-2011 >>

(1) Preclude an institution of higher education from adopting the policies and technical guidelines for a major facility or a major renovation that are established by the Arkansas Energy Office of the ~~Arkansas Department~~ **Division of Environmental Quality** under § 22-3-2003(b)(1); or

SECTION 3238. Arkansas Code § 22-5-807(a), concerning the notice and recommendations from interested agencies regarding leases and permits, is amended to read as follows:

<< AR ST § 22-5-807 >>

(a) When an application for a lease or permit is filed with the Commissioner of State Lands for the taking or production of any sand, gravel, oil, natural gas, casinghead gas, coal, or other minerals or the severance of any timber or logs from state-owned lands, the Commissioner of State Lands shall so notify the Arkansas Geological Survey, the Arkansas Natural Resources Commission, the Oil and Gas Commission, the Arkansas State Game and Fish Commission, the Department of Parks, **Heritage**, and Tourism, the ~~Arkansas Department~~ **Division of Environmental Quality**, the Arkansas Forestry Commission, and any other appropriate state agency that has or may have a particular interest in the area proposed to be covered by the lease or permit.

SECTION 3239. Arkansas Code § 23-2-304(a)(11)(A)(i), concerning the powers and duties of the Arkansas Public Service Commission, is amended to read as follows:

<< AR ST § 23-2-304 >>

(11)(A)(i) Propose, develop, solicit, approve, require, implement, and monitor financial assistance programs for utility customers who are sixty-five (65) years of age or older or who meet the income eligibility qualifications of the Low Income Home Energy Assistance Program administered by the ~~Department of Human Services~~ **Arkansas Energy Office**.

SECTION 3240. Arkansas Code § 23-3-405(a)(1)(B), concerning the authority of the Arkansas Public Service Commission for rate changes and exemptions, is amended to read as follows:

<< AR ST § 23-3-405 >>

(B) The commission is authorized to order, require, promote, or engage in energy conservation programs and measures for the benefit of utility customers who are sixty-five (65) years of age or older or who meet the income eligibility qualifications for the Low Income Home Energy Assistance Program administered by the ~~Department of Human Services~~ **Arkansas Energy Office**.

SECTION 3241. Arkansas Code § 23–18–506, is amended to read as follows:

<< AR ST § 23–18–506 >>

23–18–506. Arkansas Department Division of Environmental Quality's and Arkansas Pollution Control and Ecology Commission's jurisdiction unaffected by subchapter.

(a) This subchapter does not affect the:

(1) Jurisdiction of the ~~Arkansas Department~~ **Division** of Environmental Quality or the Arkansas Pollution Control and Ecology Commission with respect to water and air pollution control or other matters within the jurisdiction of the ~~department~~ **division** or the Arkansas Pollution Control and Ecology Commission; and

(2) Requirement that a person apply for and obtain a permit from the ~~department~~ **division** as provided by the Arkansas Water and Air Pollution Control Act, §§ 8–4–101 — 8–4–106, 8–4–201 — 8–4–229, and 8–4–301 — 8–4–313.

(b) This subchapter does not confer upon the Arkansas Public Service Commission any authority or jurisdiction conferred by law upon the ~~department~~ **division** or the Arkansas Pollution Control and Ecology Commission.

(c) Notwithstanding the exemption provisions of § 23–18–504, each major utility facility constructed in Arkansas is subject to the environmental rules and regulations of the state and federal regulatory bodies having jurisdiction over the air, water, and other environmental impacts associated with the major utility facility.

SECTION 3242. Arkansas Code § 23–18–513(a)(7)(A), concerning service and notice of an application for a certificate of environmental compatibility and public need, is amended to read as follows:

<< AR ST § 23–18–513 >>

(A) ~~Arkansas Department~~ **Division** of Environmental Quality;

SECTION 3243. Arkansas Code § 23–18–526 is amended to read as follows:

<< AR ST § 23–18–526 >>

23–18–526. Powers of local governments and state agencies.

Notwithstanding any other provision of law, no municipality, local government unit, or state department or agency, except the ~~Arkansas Department~~ **Division** of Environmental Quality as set out in § 23–18–506, may require any approval, consent, permit, certificate, or other condition for the construction, operation, or maintenance of a major utility facility authorized by a certificate issued pursuant to the provisions of this subchapter. Nothing in this subchapter shall prevent the application of state laws for the protection of employees engaged in the construction, operation, or maintenance of the major utility facility.

SECTION 3244. Arkansas Code § 23–112–614(c)(1), concerning auto auction fees for salvage-titled or parts-only titled vehicles, is amended to read as follows:

<< AR ST § 23–112–614 >>

(1) Fifty percent (50%) for the ~~Arkansas Department~~ **Division** of Environmental Quality to be used for inspection and oversight of auto auctions to enforce all laws and rules administered by the ~~Arkansas Department~~ **Division** of Environmental Quality; and

SECTION 3245. Arkansas Code § 25–1–119(c)(2)(B), concerning services and studies regarding mortality disparities, is amended to read as follows:

<< AR ST § 25–1–119 >>

(B) ~~Arkansas Department~~ **Division** of Environmental Quality;

SECTION 3246. Arkansas Code § 25–1–119(d)(3), concerning services and studies regarding mortality disparities, is amended to read as follows:

<< AR ST § 25–1–119 >>

(3) The ~~Arkansas Department~~ **Division** of Environmental Quality;

SECTION 3247. Arkansas Code § 25–1–120(c)(2)(C), concerning comprehensive cross-sector collaboration, is amended to read as follows:

<< AR ST § 25–1–120 >>

(C) The ~~Arkansas Department~~ **Division** of Environmental Quality;

SECTION 3248. Arkansas Code § 25–1–120(c)(2)(G), concerning comprehensive cross-sector collaboration, is amended to read as follows:

<< AR ST § 25–1–120 >>

(G) ~~Department~~ **Division** of Higher Education;

SECTION 3249. Arkansas Code § 25–11–103 is amended to read as follows:

<< AR ST § 25–11–103 >>

25–11–103. Funds transfer to the Weatherization Assistance Program.

The ~~Department of Human Services~~ **Division of Environmental Quality** shall transfer annually to the ~~Arkansas Department of Environmental Quality~~ **Arkansas Energy Office of the Division of Environment Quality** a minimum of fifteen percent (15%) and up to a maximum of twenty-five percent (25%), as allowed by federal law or regulation, of the annual allocation for the Low Income Home Energy Assistance Program to be used by the Weatherization Assistance Program of the Arkansas Energy Office of the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3250. Arkansas Code § 25-14-101 is repealed.

<< Repealed: AR ST § 25-14-101 >>

25-14-101. Creation — Director — Organization — Personnel

(a) ~~There is created the Arkansas Department of Environmental Quality.~~

(b) ~~The executive head of the Arkansas Department of Environmental Quality shall be the Director of the Arkansas Department of Environmental Quality. The director shall:~~

~~(1) Be appointed by the Governor, with the consent of the Senate;~~

~~(2) Be appointed after the Governor consults with the Arkansas Pollution Control and Ecology Commission; and~~

~~(3) Serve at the pleasure of the Governor.~~

(c)(1) ~~The Arkansas Department of Environmental Quality shall consist of the divisions found in the Arkansas Pollution Control and Ecology Commission as of July 1, 1971, and any other divisions which may be created by law and placed under the Arkansas Department of Environmental Quality.~~

~~(2) There shall be created a new Division of Environmental Preservation which shall be responsible for reviewing and making specific ecologically oriented recommendations on all plans, programs, and projects of all other state departments, divisions, agencies, and commissions and upon all federal plans, programs, and projects affecting this state. To this end, all other departments, divisions, agencies, and commissions within this state are directed to cooperate with the Arkansas Department of Environmental Quality in fulfilling the Arkansas Department of Environmental Quality's responsibility defined in this chapter.~~

~~(3) Nothing in this subsection shall be construed to prevent the director, with the advice and consent of the Governor and the commission, from organizing the Arkansas Department of Environmental Quality into the divisions and units which may be necessary to effectively and efficiently administer the statutory responsibilities of the Arkansas Department of Environmental Quality.~~

(d) ~~The director, with the advice and consent of the Governor, shall appoint the heads of the respective divisions. All of the personnel of the Arkansas Department of Environmental Quality shall be employed by and serve at the pleasure of the director. Nothing in this section shall be so construed as to reduce any right which an employee in the Arkansas Department of Environmental Quality shall have under any civil service or merit system.~~

(e) ~~Each division of the Arkansas Department of Environmental Quality 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 Arkansas Department of Environmental Quality as he or she shall deem desirable and necessary for the effective and efficient operation of the Arkansas Department of Environmental Quality.~~

SECTION 3251. The introductory language of Arkansas Code § 25-34-109(b), concerning the Computer and Electronic Recycling Fund, is amended to read as follows:

<< AR ST § 25-34-109 >>

(b) The fund shall be administered by the Arkansas Department **Division** of Environmental Quality and may be used to:

SECTION 3252. Arkansas Code § 25–34–110(a), concerning the computer and electronic equipment recycling grants, is amended to read as follows:

<< AR ST § 25–34–110 >>

(a) Electronic equipment recycling grants must be awarded on the basis of written grant-request proposals submitted to and approved by the ~~Arkansas Department~~ **Division** of Environmental Quality.

SECTION 3253. Arkansas Code § 26–51–506(c)(2)(B)(vi) and (vii), concerning unused and carry forward tax credits for waste reduction, reuse, or recycling equipment, are amended to read as follows:

<< AR ST § 26–51–506 >>

(vi) Beginning July 1, 2016, by July 15 of each year, the public retirement system with possession and control of the tax credits under this subdivision (c)(2)(B) shall provide notice to the Department of Finance and Administration of the amount of tax credits, including tax credits pending certification by the ~~Arkansas Department~~ **Division** of Environmental Quality, subject to the limitations in subdivision (c)(2)(B)(iii) of this section, to be sold or transferred for value.

(vii) The State of Arkansas shall pay the purchase price equal to eighty percent (80%) of the face value of all of the tax credits included in the notice required in subdivision (c)(2)(B)(vi) of this section on or before June 30 of the year following the year in which the notice was provided for all tax credits certified by the ~~Arkansas Department~~ **Division** of Environmental Quality by June 30 of the year following the year in which the notice was provided by warrant from the Economic Development Incentive Fund funded by a transfer from general revenue.

SECTION 3254. Arkansas Code § 26–51–506(c)(3)(D)(v) and (vi), concerning eligibility for tax credits by a public retirement system for waste reduction, reuse, or recycling equipment, are amended to read as follows:

<< AR ST § 26–51–506 >>

(v) Beginning July 1, 2020, by July 15 of each year, the public retirement system with possession and control of the tax credits under this subdivision (c)(3)(D) shall provide notice to the Department of Finance and Administration of the amount of tax credits, including tax credits expected to receive certification during the fiscal year by the ~~Arkansas Department~~ **Division** of Environmental Quality, subject to the limitations in subdivision (c)(3)(D)(iii) of this section, to be sold or transferred for value.

(vi) The State of Arkansas shall pay the purchase price equal to eighty percent (80%) of the face value of all of the tax credits included in the notice required in subdivision (c)(3)(D)(v) of this section on or before June 30 of the calendar year following the calendar year in which the notice was provided for all tax credits certified by the ~~Arkansas Department~~ **Division** of Environmental Quality by June 30 of the calendar year following the calendar year in which the notice was provided by warrant from the Economic Development Incentive Fund funded by a transfer from general revenue.

SECTION 3255. Arkansas Code § 26–51–506(d), concerning the procedure to claim tax credits for waste reduction, reuse, or recycling equipment, is amended to read as follows:

<< AR ST § 26–51–506 >>

(d) To claim the benefits of this section, a taxpayer must obtain a certification from the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality certifying to the Revenue Division of the Department of Finance and Administration that:

- (1) The taxpayer is engaged in the business of reducing, reusing, or recycling solid waste material for commercial purposes, whether or not for profit;
- (2) The machinery or equipment purchased is waste reduction, reuse, or recycling equipment;
- (3) The machinery or equipment is being used in the collection, separation, processing, modification, conversion, treatment, or manufacturing of products containing at least fifty percent (50%) recovered materials, provided that at least ten percent (10%) of the recovered materials shall be post-consumer waste; and
- (4) The taxpayer has filed a statement with the director acknowledging that the taxpayer will make a good faith effort to utilize post-consumer waste generated in Arkansas as at least ten percent (10%) of the post-consumer waste being used in the equipment, to the extent available at a competitive price.

SECTION 3256. Arkansas Code § 26–51–506(f)(5), concerning eligibility, timing and application for tax credits for waste reduction, reuse, or recycling equipment, is amended to read as follows:

<< AR ST § 26–51–506 >>

(5)(A) This subsection shall apply to all credits which are certified as a result of applications for certification filed with the ~~Arkansas Department~~ **Division** of Environmental Quality on or after July 1, 1993.

~~(B) This subsection shall not apply to credits which are certified as a result of applications for certification filed with the Arkansas Department of Environmental Quality prior to July 1, 1993.~~

~~(C) Taxpayers who file written notice and a project plan with the Arkansas Department of Environmental Quality prior to July 1, 1993, shall be deemed to have filed an application for certification for purposes of this subdivision (f)(5), provided that all the information necessary to complete the application for certification is provided to the Arkansas Department of Environmental Quality on or before December 31, 1993.~~

SECTION 3257. Arkansas Code § 26–51–506(k)(1)(A), concerning the authority of the Arkansas Department of Environmental Quality to promulgate rules for eligibility for a tax credit for waste reduction, reuse, or recycling equipment, is amended to read as follows:

<< AR ST § 26–51–506 >>

(k)(1)(A) The ~~Arkansas Department~~ **Division** of Environmental Quality and the ~~division~~ **Revenue Division of the Department of Finance and Administration** shall promulgate rules or regulations as are necessary to administer this section.

SECTION 3258. Arkansas Code § 26–51–511(a)(1)(B), concerning coal mining, producing, and extracting, is amended to read as follows:

<< AR ST § 26–51–511 >>

(B) A holder of a valid mining permit issued by the ~~Arkansas Department~~ **Division** of Environmental Quality to allow surface or highwall mining;

SECTION 3259. Arkansas Code § 26–51–511(d)(3)(A), concerning coal mining, producing, and extracting, is amended to read as follows:

<< AR ST § 26–51–511 >>

(3)(A) The coal mining enterprise and the eligible transferee shall jointly file a copy of the written credit transfer agreement with the ~~Director~~ **Secretary** of the Department of Finance and Administration within thirty (30) days of the credit transfer.

SECTION 3260. The introductory language of Arkansas Code § 26–51–1215(d)(2), concerning tax credits for waste reduction, reuse, or recycling equipment, is amended to read as follows:

<< AR ST § 26–51–1215 >>

(2) Obtain a certification from the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality certifying to the Revenue Division of the Department of Finance and Administration that:

SECTION 3261. Arkansas Code § 26–51–1503(3)(A), concerning the definition of “committee” under the Arkansas Private Wetland and Riparian Zone Creation, Restoration, and Conservation Tax Credits Act, is amended to read as follows:

<< AR ST § 26–51–1503 >>

(A) The directors, or their designees, of:

- (i) ~~The Arkansas Forestry Commission;~~
- (ii) The Arkansas State Game and Fish Commission;
- (iii) **(ii)** The Department of Finance and Administration;
- (iv) **(iii)** The ~~Department~~ **Division** of Arkansas Heritage; and
- (v) **(iv)** The ~~Arkansas Department~~ **Division** of Environmental Quality; and

SECTION 3262. Arkansas Code § 26–52–401(36), concerning various products and services exempted from certain taxes, is amended to read as follows:

<< AR ST § 26–52–401 >>

(36) Gross receipts or gross proceeds derived from the sale of:

(A) Fuel packaging materials to a person engaged in the business of processing hazardous and nonhazardous waste materials into fuel products at a facility permitted by the ~~Arkansas Department~~ **Division** of Environmental Quality for hazardous waste treatment; and

(B) Machinery and equipment, including analytical equipment and chemicals used directly in processing and packaging of hazardous and nonhazardous waste materials into fuel products at a facility permitted by the ~~Arkansas Department~~ **Division** of Environmental Quality for hazardous waste treatment;

SECTION 3263. Arkansas Code § 27-101-405(a)(2), concerning the establishment of the Marine Sanitation Advisory Committee, is amended to read as follows:

<< AR ST § 27-101-405 >>

(2) Two (2) members from the state at large to be appointed by the Governor after consulting with the ~~Director~~ **Secretary** of the Department of Health and the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality; and

SECTION 3264. Arkansas Code § 27-101-410 is amended to read as follows:

<< AR ST § 27-101-410 >>

27-101-410. Cooperation with federal agencies.

The Department of Health, the ~~Arkansas Department~~ **Division** of Environmental Quality, and the Arkansas State Game and Fish Commission shall pursue cooperative agreements with all appropriate federal agencies to ensure the proper disposal of marine sewage in Arkansas.

SECTION 3265. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 7 — Department of Finance and Administration

<< AR ST § 25-43-701 >>

25-43-701. Department of Finance and Administration.

There is created the Department of Finance and Administration as a cabinet-level department.

<< AR ST § 25-43-702 >>

25-43-702. State entities transferred to Department of Finance and Administration.

(a) The administrative functions of the following state entities are transferred to the Department of Finance and Administration by a cabinet-level transfer:

(1) The Alcoholic Beverage Control Division, created under § 25-8-101;

(2) The Assessment Coordination Department, created under § 25-28-101, now to be known as the Assessment Coordination Division;

(3) The Arkansas Tobacco Control Board, created under § 26-57-255;

- (4) Arkansas Tobacco Control, created under § 26–57–257;
- (5) The Arkansas Racing Commission, created under § 23–110–201;
- (6) The Department of Finance and Administration, created under § 25–8–101;
- (7) The Medical Marijuana Commission, created under Arkansas Constitution, Amendment 98, § 19;
- (8) The Office of the Arkansas Lottery, created under § 23–115–201;
- (9) The Office of Motor Vehicle, created under § 27–14–401;
- (10) The Office of Driver Services, created under § 27–16–402; and
- (11) The Office of Child Support Enforcement, created under § 9–14–206.

(b) Unless otherwise provided by law, a cabinet-level department transfer under subsection (a) of this section includes all state entities under a state entity transferred to the Department of Finance and Administration under subsection (a) of this section, including without limitation a division, office, program, or other unit of a state entity transferred to the Department of Finance and Administration under subsection (a) of this section.

(c) Unless otherwise provided by law, a state entity whose administrative functions have been transferred to the Department of Finance and Administration under subsection (a) of this section shall otherwise continue to exercise the duties of the state entity under the administration of the cabinet-level Department of Finance and Administration in the same manner as before the creation of the cabinet-level department.

<< AR ST § 25–43–703 >>

25–43–703. Secretary of the Department of Finance and Administration.

- (a) The executive head of the Department of Finance and Administration shall be the Secretary of the Department of Finance and Administration.
- (b) The secretary shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.
- (c) Each division of the department shall be under the direction, control, and supervision of the secretary.
- (d) The secretary may delegate his or her functions, powers, and duties to various divisions or employees of the department as he or she shall deem desirable and necessary for the effective and efficient operation of the department.
- (e) The secretary may, unless otherwise provided by law:
 - (1) Hire department personnel;
 - (2) Perform or assign duties assigned to the department; and
 - (3) Serve as the director, or the administrative or executive head, of any state entity under the administrative control of the department if the secretary also meets all statutory requirements for the position.

SECTION 3266. Arkansas Code § 2-9-106(c), concerning the Arkansas Catfish Promotion Board's list of commercial producers who are entitled to vote in referenda, is amended to read as follows:

<< AR ST § 2-9-106 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall be reimbursed from funds collected for the costs of holding referenda.

SECTION 3267. Arkansas Code § 2-9-107(c)(1), concerning the Arkansas Catfish Board's vote on the levy of an assessment on the sale of catfish feed, is amended to read as follows:

<< AR ST § 2-9-107 >>

(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 each seller of catfish feed, who shall add the assessment to the purchase price of catfish feed sold in this state to commercial catfish producers.

SECTION 3268. Arkansas Code § 2-9-109(a)(3), concerning catfish assessment records, is amended to read as follows:

<< AR ST § 2-9-109 >>

(3) The records shall be preserved for a period of two (2) years and shall be offered for inspection at any time upon written demand by the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her authorized agent or representative.

SECTION 3269. Arkansas Code § 2-9-109(b), concerning catfish assessment records, is amended to read as follows:

<< AR ST § 2-9-109 >>

(b)(1) At such times as the ~~director~~ **secretary** may require, every person required to pay the assessment provided for in this chapter shall submit reports or otherwise document any information deemed necessary for the efficient collection of the assessment imposed in this chapter.

(2) The ~~director~~ **secretary** has the power to cause any authorized agent or representative to enter upon the premises of any person required to pay the assessment provided for in this chapter and examine or cause to be examined by the agent any books, papers, and records which deal in any way with the payment of the assessment or enforcement of the provisions of this chapter.

SECTION 3270. Arkansas Code § 2-9-110 is amended to read as follows:

<< AR ST § 2-9-110 >>

2-9-110. Assessment refund.

(a) So long as the assessment on the sale of catfish feed continues to be levied as provided in this chapter, any catfish producer may request and receive a refund of such assessment, provided he or she makes a written application therefor with the ~~Director~~ **Secretary** of the Department of Finance and Administration within sixty (60) calendar days after the date of sale, supported by copies of sales slips from the seller of the catfish feed and a refund form approved by the Arkansas Catfish Promotion Board.

(b) The ~~director~~ **secretary** shall create and approve a refund claim form.

SECTION 3271. Arkansas Code § 2-9-111 is amended to read as follows:

<< AR ST § 2-9-111 >>

2-9-111. Penalty.

(a)(1) Any seller who fails to file a report, collect an assessment, or remit any assessment when due shall pay a penalty not to exceed five percent (5%) of the amount of the assessment that should have been collected or remitted, plus an additional penalty not to exceed one percent (1%) of the amount of the assessment that should have been collected or remitted for each month of delay, or fraction of a month, after the first month the report was required to be filed or the assessment became due.

(2) The penalty shall be paid to the ~~Director~~ **Secretary** of the Department of Finance and Administration and shall be disposed of in the same manner as funds derived from the payment of an assessment as provided in this chapter.

(b) The ~~director~~ **secretary** shall collect the penalties levied in this section, together with the delinquent assessment, by any or all of the following methods:

(1) Voluntary payment; or

(2) Legal proceedings instituted in a court of competent jurisdiction seeking any remedies available, including, but not limited to, injunctive relief to enjoin any seller owing the assessment or penalties from engaging in business as a seller of catfish feed until the amount of the assessment due and all penalties are paid.

(c) Any person required to pay the assessment provided for in this chapter who refuses to allow full inspection of the premises or any book, record, or other document relating to the liability of the person for the assessment imposed or who shall hinder or in any way delay or prevent the inspection shall be guilty of a violation punishable by a fine not exceeding five hundred dollars (\$500).

SECTION 3272. Arkansas Code § 2-20-403 is amended to read as follows:

<< AR ST § 2-20-403 >>

2-20-403. Penalties.

(a)(1) Any first purchaser or other person required to pay an assessment under this subchapter who fails to pay any assessment when due shall forfeit a penalty of two percent (2%) of the assessment each month beginning the day following the date the assessment was due.

(2) The penalty shall be paid to the Arkansas Soybean Promotion Board or to its designee, the ~~Director~~ **Secretary** of the Department of Finance and Administration, and shall be disposed of in the same manner as funds derived from the payment of an assessment as provided in this subchapter.

(b) The board or its designee shall collect the penalty levied in this section, together with the delinquent assessment, by any and all of the following methods:

(1) Voluntary payment by the person liable;

(2) Legal proceedings instituted in a court of competent jurisdiction; or

(3) Injunctive relief to enjoin any person owing the assessment or penalty from operating his or her business or engaging in business as a buyer or seller of soybeans until the delinquent assessment or penalty is paid.

(c)(1) Any person required to pay the assessment provided for in this subchapter who refuses to allow full inspection of the premises or any book, record, or other document relating to the liability of the person for the assessment imposed or who shall hinder or in any way delay or prevent the inspection shall be guilty of a violation.

(2) Upon conviction, an offender shall be punished by a fine not exceeding five hundred dollars (\$500).

SECTION 3273. Arkansas Code § 2–20–405(a)(3), concerning the powers of the Arkansas Soybean Promotion Board, is amended to read as follows:

<< AR ST § 2–20–405 >>

(3) To collect assessments paid on soybeans marketed within the state and to establish procedures for ensuring compliance with regard to the payment of such assessments; provided, that the Arkansas Soybean Promotion Board may designate the ~~Director~~ **Secretary** of the Department of Finance and Administration to collect assessments and ensure compliance with regard to the payment of such assessments, subject to such rules as may be promulgated by the Arkansas Soybean Promotion Board and as may be reasonably necessary to comply with the Soybean Promotion, Research and Consumer Information Act of 1990;

SECTION 3274. Arkansas Code § 2–20–406(a)(1), concerning assessments on Arkansas-grown soybeans, is amended to read as follows:

<< AR ST § 2–20–406 >>

(a)(1) Except as otherwise prescribed by regulations approved by the United States Secretary of Agriculture or the Arkansas Soybean Promotion Board, each person purchasing from, and making payment to, a producer for soybeans produced by such producer and marketed for commercial use, including, in any case in which soybeans are pledged as collateral for a loan issued under any federal price support loan program, the Commodity Credit Corporation, shall be a first purchaser and shall collect an assessment from the producer, and each producer shall pay such assessment to the first purchaser, at the applicable rate prescribed in this section. Each first purchaser shall remit such assessment to the board or to its designee, the ~~Director~~ **Secretary** of the Department of Finance and Administration. For the purpose of this section, purchases from a producer of soybeans or contracts with a producer for production of soybeans for livestock feed or any other application shall constitute marketing for commercial use.

SECTION 3275. Arkansas Code § 2–20–406(c)(1), concerning assessments on Arkansas-grown soybeans, is amended to read as follows:

<< AR ST § 2–20–406 >>

(c)(1) The proceeds of the assessment shall be deposited with the Treasurer of State in a special fund to be established for the Arkansas Soybean Promotion Board; provided, that the ~~director~~ **secretary** may deduct not more than three percent (3%) to cover the cost of collections.

SECTION 3276. Arkansas Code § 2–20–407(b)(1), concerning reports, books, and records to be sent to the Arkansas Soybean Promotion Board, is amended to read as follows:

<< AR ST § 2-20-407 >>

(b)(1) Each person who is subject to this subchapter shall maintain and make available for inspection by the secretary **United States Department of Agriculture**, the board or its designee, the ~~Director~~ **Secretary** of the Department of Finance and Administration, such books and records as are necessary to carry out the provisions of this subchapter and the rules issued thereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two (2) years beyond the fiscal period of their applicability.

SECTION 3277. The introductory language of Arkansas Code § 2-20-407(c), concerning reports, books, and records to be sent to the Arkansas Soybean Promotion Board, is amended to read as follows:

<< AR ST § 2-20-407 >>

(c) All information obtained from books, records, or reports required to be filed or kept under this section shall be kept confidential by all persons, including employees and former employees of the board, all officers and employees and all former officers and employees of the Department of Finance and Administration, and by all officers and employees and all former officers and employees of contracting parties having access to such information, and shall not be available to board members or any other producers. Only those persons having a specific need for such information in order to effectively administer the provisions of this subchapter shall have access to such information. In addition, only such information so furnished or acquired as the secretary **United States Department of Agriculture** or the board deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the secretary **United States Department of Agriculture** or the board, or to which the secretary **United States Department of Agriculture**, any officer of the United States, the board, or the ~~director~~ **Secretary of the Department of Finance and Administration**, is a party. This section shall not be deemed to prohibit:

SECTION 3278. Arkansas Code § 2-20-408 is amended to read as follows:

<< AR ST § 2-20-408 >>

2-20-408. Refunds to producers.

(a) So long as the assessment on soybeans is as provided in § 2-20-406(b)(1), any soybean producer may request and receive a refund of such assessment, provided he or she makes a written application therefor with the Arkansas Soybean Promotion Board or its designee, the ~~Director~~ **Secretary** of the Department of Finance and Administration, within forty-five (45) days from the date of sale, supported by copies of sales slips signed by the purchaser, and provided further, that the application is filed before the annual accounting is made of the funds not later than July 1 each year.

(b) So long as the assessment on soybeans is as provided in § 2-20-406(b)(2), any soybean producer may request and receive a refund of such assessment to the extent provided by the Soybean Promotion, Research and Consumer Information Act of 1990. Such producer shall make written application therefor with the board or its designee, the ~~director~~ **secretary**, within forty-five (45) days from the date the assessment was due from such producer, supported by copies of sales slips signed by the purchaser.

SECTION 3279. Arkansas Code § 2-20-504(a) and (b), concerning penalties in regards to rice promotion, are amended to read as follows:

<< AR ST § 2-20-504 >>

(a)(1) Any buyer who fails to file a report or pay any assessment within the required time set by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall forfeit to the ~~director~~ **secretary** a penalty of five percent (5%) of the assessment determined to be due plus one percent (1%) for each month of delay, or fraction of a month, after the first month after the report was required to be filed or the assessment became due.

(2) The penalty shall be paid to the ~~director~~ **secretary** and shall be disposed of by him or her in the same manner as funds derived from the payment of assessment imposed in this subchapter.

(b) The ~~director~~ **secretary** shall collect the penalty levied in this subchapter, together with the delinquent assessment, by any or all of the following methods:

(1) Voluntary payment by the person liable;

(2) Legal proceedings instituted in a court of competent jurisdiction; or

(3) Injunctive relief to enjoin any buyer owing an assessment or penalty from operating his or her business or engaging in business as a buyer of rice until the delinquent assessment or penalty is paid.

SECTION 3280. Arkansas Code § 2–20–507(b), concerning assessments on grown rice, is amended to read as follows:

<< AR ST § 2–20–507 >>

(b) 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 rice at the first point of sale or at the point the rice enters into the United States Department of Agriculture loan program.

SECTION 3281. Arkansas Code § 2–20–508(a)(3), concerning records and other documentation in regards to the Arkansas Rice Research and Promotion Board, is amended to read as follows:

<< AR ST § 2–20–508 >>

(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** of the Department of Finance and Administration or any duly authorized agent or representative of him or her.

SECTION 3282. Arkansas Code § 2–20–508(b), concerning records and other documentation in regards to the Arkansas Rice Research and Promotion Board, is amended to read as follows:

<< AR ST § 2–20–508 >>

(b)(1) At such times as the ~~director~~ **secretary** may require, every buyer shall submit reports or otherwise document any information deemed necessary for the efficient collection of the assessment imposed in this subchapter.

(2) The ~~director~~ **secretary** shall have the power to cause any duly authorized agent or representative to enter upon the premises of any buyer of rice and examine or cause to be examined by the agent any books, papers, and records which deal in any way with respect to the payment of the assessment or enforcement of the provisions of this subchapter.

SECTION 3283. Arkansas Code § 2–20–603(a), concerning penalties in regard to wheat promotion, is amended to read as follows:

<< AR ST § 2-20-603 >>

(a)(1) Any buyer who fails to file a report or pay any assessment within the required time set by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall forfeit to the ~~director~~ **secretary** a penalty of five percent (5%) of the assessment determined to be due plus one percent (1%) for each month of delay, or fraction of a month, after the first month after the report was required to be filed or the assessment became due.

(2) The penalty shall be paid to the ~~director~~ **secretary** and shall be disposed of by him or her in the same manner as funds derived from the payment of assessment imposed in this subchapter.

SECTION 3284. The introductory language of Arkansas Code § 2-20-603(b), concerning penalties in regards to wheat promotion, is amended to read as follows:

<< AR ST § 2-20-603 >>

(b) The ~~director~~ **secretary** shall collect the penalty levied in this subchapter, together with the delinquent assessment, by any or all of the following methods:

SECTION 3285. Arkansas Code § 2-20-606(b)(1), concerning the assessments on grown wheat, is amended to read as follows:

<< AR ST § 2-20-606 >>

(b)(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 wheat at the first point of sale or when the wheat enters the United States Department of Agriculture loan program.

SECTION 3286. Arkansas Code § 2-20-607(a)(3), concerning records and other documentation in regard to the Arkansas Wheat Promotion Board, is amended to read as follows:

<< AR ST § 2-20-607 >>

(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** of the Department of Finance and Administration or any duly authorized agent or representative of him or her.

SECTION 3287. Arkansas Code § 2-20-607(b), concerning records and other documentation in regard to the Arkansas Wheat Promotion Board, is amended to read as follows:

<< AR ST § 2-20-607 >>

(b)(1) At such times as the ~~director~~ **secretary** may require, every buyer shall submit reports or otherwise document any information deemed necessary for the efficient collection of the assessment imposed in this subchapter.

(2) The ~~director~~ **secretary** shall have the power to cause any duly authorized agent or representative to enter upon the premises of any buyer of wheat and examine or cause to be examined by the agent any books, papers, and records which deal in any way with respect to the payment of the assessment or enforcement of the provisions of this subchapter.

SECTION 3288. Arkansas Code § 2–20–608(1), concerning refunds to wheat producers, is amended to read as follows:

<< AR ST § 2–20–608 >>

(1) He or she makes a written application with the ~~Director~~ **Secretary** of the Department of Finance and Administration within forty-five (45) days from the date of sale, supported by copies of sales slips signed by the purchaser; and

SECTION 3289. Arkansas Code § 2–20–802(a), concerning penalties regarding corn and grain sorghum promotion, is amended to read as follows:

<< AR ST § 2–20–802 >>

(a)(1) Any buyer who fails to file a report or pay any assessment within the required time set by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall forfeit to the ~~director~~ **secretary** a penalty of five percent (5%) of the assessment determined to be due plus one percent (1%) for each month of delay, or fraction of a month, after the first month after the report was required to be filed or the assessment became due.

(2) The penalty shall be paid to the ~~director~~ **secretary** and shall be disposed of by him or her in the same manner as funds derived from the payment of the assessment imposed in this subchapter.

SECTION 3290. The introductory language of Arkansas Code § 2–20–802(b), concerning penalties regarding corn and grain sorghum promotion, is amended to read as follows:

<< AR ST § 2–20–802 >>

(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 3291. 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:

<< AR ST § 2–20–805 >>

(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 3292. 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:

<< AR ST § 2–20–805 >>

(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.

SECTION 3293. Arkansas Code § 2-35-310 is amended to read as follows:

<< AR ST § 2-35-310 >>

2-35-310. Refunds.

Any cattle producer may request and receive a refund of the amount deducted from the sale of his or her cattle if he or she makes a written application with the ~~Director~~ **Secretary** of the Department of Finance and Administration within forty-five (45) days from the date of sale, supported by copies of sales slips signed by the buyer and, if the application is filed before the annual accounting is made of the funds, not later than July 1 each year.

SECTION 3294. Arkansas Code § 2-35-403(a), concerning the assessment and the conduct of the program regarding beef promotion and research, is amended to read as follows:

<< AR ST § 2-35-403 >>

(a) The assessment levied under the national beef promotion and research program in the amount of one dollar (\$1.00) per head of cattle sold shall be collected, reported, and remitted to the ~~Director~~ **Secretary** of the Department of Finance and Administration by the persons, in the manner, and at the times prescribed by the federal Beef Promotion and Research Act of 1985 and the administrative orders and rules issued under the provisions of that act.

SECTION 3295. Arkansas Code § 2-35-404 is amended to read as follows:

<< AR ST § 2-35-404 >>

2-35-404. Rules.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to adopt appropriate rules not inconsistent with this subchapter or the federal law, orders, and rules regarding the national beef promotion and research program as he or she may deem necessary to carry out the intent and purposes of, and to assure compliance with, this subchapter and the federal laws, orders, and rules relating to the national beef promotion and research program.

SECTION 3296. The introductory language of Arkansas Code § 2-35-405(a), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 2-35-405 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall deposit in the State Treasury all funds collected by him or her under this subchapter and the federal Beef Promotion and Research Act of 1985 and the federal administrative orders and rules issued under that act. Beginning with funds collected by him or her on and after the first day of the month next following January 22, 1987, the Treasurer of State shall:

SECTION 3297. Arkansas Code § 2-40-206(b), concerning the funding of a bovine disease program, is amended to read as follows:

<< AR ST § 2-40-206 >>

(b)(1) The fee shall be collected by the purchaser and remitted monthly to the ~~Director~~ **Secretary** of the Department of Finance and Administration, except that if the sale occurs through a livestock auction market or any other agent of the seller, the livestock auction market or other agent shall collect and remit the fee. The ~~director~~ **Secretary of the Department of Finance and Administration** may promulgate such rules as it deems necessary to implement the collection of the fee.

(2)(A) After deducting three percent (3%) for credit to the Constitutional Officers Fund and the State Central Services Fund the remainder of funds so remitted to the ~~director~~ **Secretary of the Department of Finance and Administration** shall be deposited into the State Treasury as special revenues and credited to the Livestock and Poultry Commission Disease and Pest Control Fund.

(B) Before the close of each fiscal year, the Chief Fiscal Officer of the State shall determine the amount of funds which will remain at the end of the fiscal year in the Livestock and Poultry Commission Disease and Pest Control Fund from fees collected under the provisions of this section. He or she shall allow such funds to be carried forward and made available for the same purposes in the next-succeeding fiscal year.

(C) The ~~director~~ **Secretary of the Department of Finance and Administration** shall release all information related to the fee levied per head on all cattle sold in the state to be used for the bovine disease control and eradication fund when requested by the Secretary of the ~~Arkansas Agriculture~~ **Department of Agriculture**.

SECTION 3298. Arkansas Code § 2-40-1201(b) and (c), concerning fees and disposition of funds, are amended to read as follows:

<< AR ST § 2-40-1201 >>

(b)(1) Each livestock market operator shall collect fees and remit monthly to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(2) The ~~director~~ **secretary** may promulgate such rules as it **the secretary** deems necessary to implement the collection of the fee.

(c) After deducting three percent (3%) for credit to the Constitutional Officers Fund and the State Central Services Fund, the remainder of funds so remitted to the ~~director~~ **secretary** shall be deposited into the State Treasury as special revenues and credited to the Livestock and Poultry Commission Swine Testing Fund.

SECTION 3299. Arkansas Code § 3-2-101(a), concerning the prohibition of interest in alcoholic beverages by enforcement officers, is amended to read as follows:

<< AR ST § 3-2-101 >>

(a) Neither the ~~Director~~ **Secretary** of the Department of Finance and Administration nor any officer, employee, deputy, or assistant thereof shall have any direct or indirect interest in or on any premises where alcoholic liquors are manufactured or sold, nor shall he or she have any direct or indirect interest in any business wholly or partially devoted to the manufacture or sale of alcoholic liquors or own any stock in any corporation which has any direct or indirect

interest in the premises where alcoholic liquors are manufactured or sold or in any business wholly or partially devoted to the manufacture or sale of alcoholic liquors.

SECTION 3300. Arkansas Code § 3–2–203(a), concerning the director and staff of the Alcoholic Beverage Control Enforcement Division, is amended to read as follows:

<< AR ST § 3–2–203 >>

(a) The Director of the Alcoholic Beverage Control Enforcement Division shall be appointed by the ~~Director~~ **Secretary** of the Department of Finance and Administration and shall serve at the pleasure of the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3301. Arkansas Code § 3–2–205(b)(5)(A), concerning the powers and duties of the Alcohol Beverage Control Division and the Alcoholic Beverage Control Enforcement Division, is amended to read as follows:

<< AR ST § 3–2–205 >>

(5)(A) To keep records in proper form, to be prescribed by the Director of the Alcoholic Beverage Control Division and the ~~Director~~ **Secretary** of the Department of Finance and Administration, of all permits issued and all permits revoked under the provisions of this act and to keep records in such form so as to provide ready information as to the identity of all permit holders, including the names of stockholders who are not exempted under subdivision (b)(5)(B) of this section, and directors of corporations holding permits, and also the location of all permitted premises.

SECTION 3302. Arkansas Code § 3–2–205(c)(6), concerning the powers and duties of the Alcohol Beverage Control Division and the Alcoholic Beverage Control Enforcement Division, is amended to read as follows:

<< AR ST § 3–2–205 >>

(6) Any other powers, functions, and duties pertaining to the control of alcoholic beverages which previously were granted to the ~~Director~~ **Secretary** of the Department of Finance and Administration and which are not specifically delegated to the Alcoholic Beverage Control Board by the provisions of this subchapter.

SECTION 3303. Arkansas Code § 3–2–205(d)(4), concerning the powers and duties of the Alcohol Beverage Control Division and the Alcoholic Beverage Control Enforcement Division, is amended to read as follows:

<< AR ST § 3–2–205 >>

(4) Any other powers, functions, and duties pertaining to the control of alcoholic beverages which previously were granted to the ~~Director~~ **Secretary** of the Department of Finance and Administration and which are not specifically delegated to the Director of the Alcoholic Beverage Control Division or the board by the provisions of this subchapter.

SECTION 3304. Arkansas Code § 3–2–205(e)(2)–(4), concerning the powers and duties of the Alcohol Beverage Control Division and the Alcoholic Beverage Control Enforcement Division, are amended to read as follows:

<< AR ST § 3–2–205 >>

(2) The collection of all such taxes and permit or license fees shall be by the ~~Director~~ **Secretary** of the Department of Finance and Administration and his or her agents and employees, as provided by law.

(3) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall make a biennial report to the Governor and the General Assembly of his or her activities for the past year, which shall include statistics as to the amount of vinous (except wines), spirituous, or malt liquors manufactured in the State of Arkansas and the disposition thereof; the increase or decrease in their consumption over the preceding year; the amount of taxes and permit fees collected; and such other information as he or she deems advisable.

(4) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall report by June 1 of each year to the Alcoholic Beverage Control Division and the board any and all permit and license holders who are more than ninety (90) days delinquent on any alcoholic beverage sales tax, excise tax, supplemental mixed drink tax, any other tax relating to the sale or dispensing of alcoholic beverages, or any state or local gross receipts or compensating use taxes.

SECTION 3305. Arkansas Code § 3-4-103(e), concerning the continuation of a permitted business that holds an alcoholic beverage permit by a benefiting fiduciary, is amended to read as follows:

<< AR ST § 3-4-103 >>

(e) For each endorsement, a fee of five dollars (\$5.00) shall be paid to the ~~Director~~ **Secretary** of the Department of Finance and Administration by the applicant, which shall be paid into the same fund as other permit fees herein provided.

SECTION 3306. Arkansas Code § 3-4-301(a)(7), concerning the grounds for revocation of any permit issued for alcoholic beverages, is amended to read as follows:

<< AR ST § 3-4-301 >>

(7) For failure or default of a permittee to pay any license or permit tax or any part thereof or penalties imposed by this act and for a violation of any rule or regulation of the ~~Director~~ **Secretary** of the Department of Finance and Administration or the Director of the Alcoholic Beverage Control Division in pursuance thereof;

SECTION 3307. Arkansas Code § 3-4-301(b)(1), concerning the grounds for revocation of any permit issued for alcoholic beverages, is amended to read as follows:

<< AR ST § 3-4-301 >>

(b)(1) Whenever any person holding a retailer's permit to sell and dispense vinous or spirituous liquors for beverage purposes at retail shall fail to pay any Arkansas gross receipts tax, franchise tax, or the three percent (3%) special alcoholic beverage excise tax within sixty (60) days after the taxes become due, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall notify the Alcoholic Beverage Control Board of that fact and the board shall immediately revoke such permit.

SECTION 3308. Arkansas Code § 3-4-501(b) and (c), concerning when fees are due, are amended to read as follows:

<< AR ST § 3-4-501 >>

(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 3309. Arkansas Code § 3–5–216(c), concerning the warehousing of beer and light wines, is amended to read as follows:

<< AR ST § 3–5–216 >>

(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 3310. Arkansas Code § 3–5–223(a), concerning actions to recover taxes, is amended to read as follows:

<< AR ST § 3–5–223 >>

(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 3311. Arkansas Code § 3–5–224 is amended to read as follows:

<< AR ST § 3–5–224 >>

3–5–224. Disposition of funds.

All permits or license fees or taxes, penalties, fines, proceeds of all forfeitures, special inspection fees, and costs received by the ~~Director~~ **Secretary** of the Department of Finance and Administration under the provisions of this subchapter shall be general revenues and shall be deposited in the State Treasury to the credit of the State Apportionment Fund. The Treasurer of State shall allocate and transfer those revenues 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 3312. Arkansas Code § 3–5–225 is amended to read as follows:

<< AR ST § 3–5–225 >>

3–5–225. Additional administrative personnel.

The ~~Director~~ **Secretary** of the Department of Finance and Administration and the Director of the Alcoholic Beverage Control Division are authorized to employ such additional clerks, inspectors, and assistants as may be necessary for the enforcement of this subchapter.

SECTION 3313. Arkansas Code § 3–5–602 is amended to read as follows:

<< AR ST § 3–5–602 >>

3–5–602. Rules and regulations.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to establish appropriate rules and regulations, if he or she deems it advisable, to simplify the furnishing of information to the Department of Finance and Administration as required under the provisions of this subchapter.

(b) The ~~director~~ **secretary** may promulgate forms which are to be filed with the department abbreviating information now required to be furnished under this subchapter or may waive in writing the filing of any information with the department on condition that the information and records will be kept by Arkansas wineries for department inspection and audit.

SECTION 3314. Arkansas Code § 3–5–803 is amended to read as follows:

<< AR ST § 3–5–803 >>

3–5–803. Acquisition of ingredients from outside state.

Whenever reference is made in this subchapter and § 3–5–405 [repealed] to the acquisition of grapes, berries, fruits, or vegetables from sources outside this state to be used for the purposes and in the quantities authorized in this subchapter and § 3–5–405 [repealed], for the production of native wines, the term shall also be deemed to mean the acquisition of equivalent amounts thereof in the form of juice, pulp, or blendable wines to be used in the manufacture or blending of native wines in this state within the allowable percentages of such products used in the preparation of juices, pulp, or blendable wines as set forth in the order by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3315. Arkansas Code § 3–5–804(b)(3), concerning the construction of the Native Wine Industry Disaster Relief Act with existing laws, is amended to read as follows:

<< AR ST § 3–5–804 >>

(3) To authorize the importation of products to offset losses of production of products in this state, only in accordance with a native wine industry disaster relief order of the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3316. Arkansas Code § 3–5–805 is amended to read as follows:

<< AR ST § 3–5–805 >>

3–5–805. Declaration of a relief program — Effect.

(a) Whenever, due to excessive heat, drought, flood, plant disease, or other natural disaster, the production of Arkansas-grown grapes, fruits, berries, or vegetables necessary to sustain the operation of native wineries on a full production basis is severely curtailed, upon petition therefor by one (1) or more native wineries licensed to do business in this state, and upon certification from the University of Arkansas Division of Agriculture Cooperative Extension Service that the production of such products has been curtailed due to natural disaster and outlining the estimated extent of the curtailment, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall determine, within thirty (30) days, whether circumstances exist which justify the declaration of a native wine industry disaster relief program. In connection therewith, the ~~director~~ **secretary** shall make independent studies and obtain information as he or she may deem appropriate or necessary to reach a proper decision in regard to the petition.

(b)(1) Upon conclusion of the studies, and in no event later than thirty (30) days after the date of the receipt of the petition, the ~~director~~ **secretary** shall issue a ruling.

(2) If the ~~director~~ **secretary** shall determine that circumstances justify the invoking of a native wine industry disaster relief program, as authorized in this subchapter and ~~§ 3-5-405 [repealed]~~, he or she shall state in his or her order the facts which justify the establishment of the program, the anticipated loss in production of Arkansas-grown grapes, fruits, berries, or vegetables, or varieties thereof, to result from the natural disaster, and the duration for which the native wine industry disaster relief program shall extend.

(3) Copies of the order shall be filed by the ~~director~~ **secretary** with each licensed native winery in this state and with other interested parties who may request copies of the order.

(c) During the period of the native wine industry disaster relief program, as determined by the ~~director~~ **secretary**, native wineries in this state may acquire from sources outside this state supplies of grapes, fruits, berries, or vegetables within the percentage of their total consumption of such products as set forth by the ~~director~~ **secretary**.

SECTION 3317. Arkansas Code § 3-5-807 is amended to read as follows:

<< AR ST § 3-5-807 >>

3-5-807. Tax on wines produced under program.

(a) During a period of native wine industry disaster relief order issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration under the provisions of § 3-5-805, any native wine produced from grapes, berries, fruits, or vegetables within the permissible quantities authorized to be imported from sources of supply outside this state to replace losses in production of such products in this state resulting from natural disaster, within the percentages set forth in the native wine industry disaster relief order of the ~~director~~ **secretary**, shall be subject to the native wine tax imposed under the provisions of § 3-5-409 [repealed]. The provisions of subchapter 6 of this chapter shall be inoperative with respect to wines produced from the grapes, fruits, berries, and vegetables imported from sources of supply outside this state within the quantities set forth in the order of the ~~director~~ **secretary**.

(b) However, if quantities of wine are produced from the grapes, berries, fruits, and vegetables, or juices, pulp, or blendable wines thereof produced outside this state in excess of the percentage of the products authorized in the order of the ~~director~~ **secretary** to offset losses of production in this state resulting from natural disaster, the tax on such excess native wine produced from imported grapes, fruits, berries, and vegetables, or from juices, pulp, or blendable wines derived therefrom, shall be reported and paid as provided in subchapter 6 of this chapter.

SECTION 3318. Arkansas Code § 3-5-903 is amended to read as follows:

<< AR ST § 3-5-903 >>

3-5-903. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may establish reasonable rules and regulations to be followed by wineries in this state in making application for the subsidy payments and to prevent abuse of the subsidy payments.

SECTION 3319. Arkansas Code § 3-5-904(c), concerning the eligibility of an Arkansas-bonded winery, is amended to read as follows:

<< AR ST § 3-5-904 >>

(c) However, in any year in which there are losses in production of Arkansas-grown grapes, fruits, berries, or vegetables used in the production of wine resulting from droughts, floods, tornadoes, extreme weather conditions, or other natural causes, the percentage of Arkansas-grown and Arkansas-produced grapes, fruits, berries, or vegetables used in producing wine, as required in this subchapter, shall be reduced in the proportion of the losses in production of the products as determined and set forth in a disaster relief order issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration prepared under the same procedures as set forth in the Native Wine Industry Disaster Relief Act, ~~§ 3-5-405 [repealed]~~ and § 3-5-801 et seq.

SECTION 3320. Arkansas Code § 3-5-905 is amended to read as follows:

<< AR ST § 3-5-905 >>

3-5-905. Applications.

Any winery in this state that produces wine from grapes, fruits, berries, or vegetables grown in this state and complies with the provisions of § 3-5-904, that desires to receive the grants authorized in this subchapter with respect to the purchase of such products or with respect to such products produced in vineyards or of other growing facilities in this state belonging to the winery, may make application for grant payments under this subchapter upon forms and in accordance with the rules and regulations promulgated by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3321. Arkansas Code § 3-5-907(a), concerning grant payments and amounts, is amended to read as follows:

<< AR ST § 3-5-907 >>

(a) Grant payments as authorized in this subchapter shall be made by the ~~Director~~ **Secretary** of the Department of Finance and Administration from moneys appropriated by the General Assembly for that purpose at each regular session and fiscal session of the General Assembly.

SECTION 3322. Arkansas Code § 3-5-1005 is amended to read as follows:

<< AR ST § 3-5-1005 >>

3-5-1005. Applications.

Any winery in this state which produces wines from grapes, berries, fruits, or vegetables grown in this state, which desires to receive the subsidy authorized in this subchapter with respect to such purchases, may make application for the subsidy with the Department of Finance and Administration upon forms and in accordance with rules and regulations promulgated by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3323. Arkansas Code § 3-5-1007(a), concerning the creation of the Arkansas Wine Grape, Berry, Fruit, and Vegetable Subsidy Fund, is amended to read as follows:

<< AR ST § 3-5-1007 >>

(a) In order to provide moneys to be used in paying the subsidies to Arkansas grape, berry, fruit, and vegetable producers whose production is sold to wineries in this state for making wine, the ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized and directed to cause to be set aside in the State Treasury an amount of sixty-nine cents

(69¢) for each seventy-five cents (75¢) gallonage tax collected on wines produced by wineries in this state from grapes, berries, fruits, or vegetables used in the production of wines in this state.

SECTION 3324. Arkansas Code § 3-5-1208 is amended to read as follows:

<< AR ST § 3-5-1208 >>

3-5-1208. Rules and regulations.

The Director of the Alcoholic Beverage Control Division, ~~and~~ the Alcoholic Beverage Control Board, and the ~~Director~~ **Secretary** of the Department of Finance and Administration, and any other applicable agency of this state, shall promulgate and adopt such regulations as they deem necessary for the implementation of this subchapter, which regulations may consist in whole or in part of the federal regulations.

SECTION 3325. Arkansas Code § 3-5-1413 is amended to read as follows:

<< AR ST § 3-5-1413 >>

3-5-1413. Rules.

The Director of the Alcoholic Beverage Control Board and the ~~Director~~ **Secretary** of the Department of Finance and Administration may adopt rules for the implementation of this subchapter.

SECTION 3326. Arkansas Code § 3-5-1608 is amended to read as follows:

<< AR ST § 3-5-1608 >>

3-5-1608. Bond.

By consent of the ~~Director~~ **Secretary** of the Department of Finance and Administration, the small farm winery may file a bond with the ~~director~~ **secretary**, the bond to be approved by him or her, which will entitle the small farm winery to the privilege of making settlement of its taxes every thirty (30) days, the time to be set by the ~~director~~ **secretary**.

SECTION 3327. Arkansas Code § 3-5-1609 is amended to read as follows:

<< AR ST § 3-5-1609 >>

3-5-1609. Penalty.

Upon conviction, a person who violates this subchapter or any reasonable rule adopted under this subchapter by the Director of the Alcoholic Beverage Control Division or the ~~Director~~ **Secretary** of the Department of Finance and Administration is guilty of a Class B misdemeanor.

SECTION 3328. Arkansas Code § 3-5-1707 is amended to read as follows:

<< AR ST § 3-5-1707 >>

3-5-1707. Rules.

The Director of the Alcoholic Beverage Control Division, the Alcoholic Beverage Control Board, the ~~Director~~ **Secretary** of the Department of Finance and Administration, and any other affected agency of this state may adopt rules to implement this subchapter.

SECTION 3329. Arkansas Code § 3–5–1708(a), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 3–5–1708 >>

(a) Permit fees or taxes, label fees, penalties, fines, proceeds of all forfeitures, special inspection fees, and costs received by the ~~Director~~ **Secretary** of the Department of Finance and Administration under this subchapter shall be general revenues and shall be deposited into the State Treasury to the credit of the State Apportionment Fund.

SECTION 3330. Arkansas Code § 3–6–106(a), concerning the collection of fees and taxes, is amended to read as follows:

<< AR ST § 3–6–106 >>

(a) The permit fees and the tax herein provided shall be collected in the same manner as all other liquor taxes and under such reasonable rules and regulations as the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her successor may provide.

SECTION 3331. Arkansas Code § 3–7–105 is amended to read as follows:

<< AR ST § 3–7–105 >>

3–7–105. Malt liquor tax — Reporting and payments.

(a) The excise tax levied on malt liquors by § 3–7–104 shall be reported and paid to the ~~Director~~ **Secretary** of the Department of Finance and Administration on or before the fifteenth day of the month following the month in which the wholesaler or other person authorized to sell malt liquors obtains delivery of such malt liquors from the supplier.

(b) The ~~director~~ **secretary** shall provide forms necessary for reporting the tax due and shall enforce the tax pursuant to the Arkansas Tax Procedure Act, § 26–18–101 et seq.

SECTION 3332. Arkansas Code § 3–7–107 is amended to read as follows:

<< AR ST § 3–7–107 >>

3–7–107. Enforcement — Rules and regulations.

(a) Sections 3–7–101 — 3–7–104 and 3–7–106 — 3–7–110 shall be administered and enforced by the Director of the Alcoholic Beverage Control Division and the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) The Director of the Alcoholic Beverage Control Division and the ~~Director~~ **Secretary** of the Department of Finance and Administration are authorized and directed to issue permits as provided for in §§ 3–7–101 — 3–7–104 and 3–7–106 — 3–7–110, for the manufacture, sale, and transportation of distilled spirits and to enforce the license tax provisions of §§ 3–7–101 — 3–7–104 and 3–7–106 — 3–7–110 and the collection of the license taxes imposed hereby and to promulgate reasonable rules and regulations for those purposes.

SECTION 3333. Arkansas Code § 3–7–108 is amended to read as follows:

<< AR ST § 3–7–108 >>

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 3334. Arkansas Code § 3–7–111(b)(3), concerning additional taxes for native wine and beer, is amended to read as follows:

<< AR ST § 3–7–111 >>

(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 3335. 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:

<< AR ST § 3–7–201 >>

(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 cause for the ~~director~~ **secretary** to enter an assessment for the return and remittance and add as a penalty ten percent (10%) of the amount of tax found to be due.

(d) Returns shall be filed upon forms prescribed by the ~~director~~ **secretary** in accordance with such regulations as the ~~director~~ **secretary** may promulgate hereunder.

(e) The State Board of Education and the ~~Department of~~ **Division of Elementary and Secondary** Education shall fully budget, fund, and expend or commit to expend the general revenue replacing the revenue derived from the previously imposed special alcoholic beverage excise tax on beer in addition to any other funding provided by law for essential programs such as subsidized child care for low-income families, the Arkansas Better Chance Program, and the Child Care and Early Childhood Education Fund Account in an amount equal to the appropriation level for the Arkansas Better Chance Program.

SECTION 3336. Arkansas Code § 3–7–202(a), concerning the procedure for obtaining a lien, is amended to read as follows:

<< AR ST § 3–7–202 >>

(a) If the taxpayer fails to demand a hearing before the ~~Director~~ **Secretary** of the Department of Finance and Administration within twenty (20) days after an assessment of the tax due the state has been made under this subchapter

or, if the taxpayer shall fail to pay the tax assessed by the ~~director~~ **secretary** after a hearing and an order by the ~~director~~ **secretary** establishing the tax, as hereinbefore provided, then the ~~director~~ **secretary** may as soon as practicable thereafter issue to the circuit clerk of any county of the state a certificate certifying that the person therein named is indebted to the state for the tax established by the ~~director~~ **secretary** to be due.

SECTION 3337. Arkansas Code § 3-7-203(a), concerning a lien and execution of the lien, is amended to read as follows:

<< AR ST § 3-7-203 >>

(a) On the entry of the certificate of the ~~Director~~ **Secretary** of the Department of Finance and Administration, the circuit clerk shall issue an execution directed to the sheriff of the county, commanding him or her to levy upon and against all real and personal property of the taxpayer, which execution shall be by the clerk placed in the hands of the sheriff for levying thereon. The ~~director~~ **secretary** shall thereby have all the remedies and may take all the proceedings for the collection of the tax which may be had or taken upon the recovery of a judgment at law.

SECTION 3338. Arkansas Code § 3-7-203(d), concerning a lien and execution of the lien, is amended to read as follows:

<< AR ST § 3-7-203 >>

(d) However, in the event the sheriff is unable, after diligent effort, to effect collection of the tax, interest, penalties, and costs, the ~~director~~ **secretary** shall be empowered and authorized to pay such fees as are properly shown to be due to the clerk and sheriff out of the Miscellaneous Tax Refund Account.

SECTION 3339. Arkansas Code § 3-7-204 is amended to read as follows:

<< AR ST § 3-7-204 >>

3-7-204. Alternative remedies.

Nothing in this subchapter shall preclude the ~~Director~~ **Secretary** of the Department of Finance and Administration from resorting to any other legal means of collecting taxes as may now be provided by law. The issuance of a certificate of indebtedness, the entry thereof by the clerk, and the levy of execution, as provided herein, shall not constitute an election of remedies in respect to the collection of the tax.

SECTION 3340. Arkansas Code § 3-7-205 is amended to read as follows:

<< AR ST § 3-7-205 >>

3-7-205. Disposition of funds.

All taxes, interest, penalties, and costs received by the ~~Director~~ **Secretary** of the Department of Finance and Administration under the provisions of this subchapter shall be general revenues and shall be deposited in the State Treasury to the credit of the State Apportionment Fund. The Treasurer of State shall allocate and transfer the revenues 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 3341. The introductory language of Arkansas Code § 3-7-302(a), concerning monthly reports and payments of excise tax, is amended to read as follows:

<< AR ST § 3-7-302 >>

(a) Each licensee responsible for the payment of excise tax shall file on or before the fifteenth day of each month a verified report on forms provided by the ~~Director~~ **Secretary** of the Department of Finance and Administration showing, for the preceding calendar month, the exact quantity of spirituous liquor:

SECTION 3342. Arkansas Code § 3-7-302(b) and (c), concerning monthly reports and payments of excise tax, are amended to read as follows:

<< AR ST § 3-7-302 >>

(b) The report on forms prescribed by the ~~director~~ **secretary** shall also show the amount of excise tax payable after allowance for all proper deductions for all spirituous liquors received by him or her in this state and shall include such additional information as the ~~director~~ **secretary** may require for the proper administration of this subchapter.

(c) Payment of the excise tax levied by law in the amount disclosed by the report shall accompany the report and shall be paid to the ~~director~~ **secretary**.

SECTION 3343. Arkansas Code § 3-7-303 is amended to read as follows:

<< AR ST § 3-7-303 >>

3-7-303. Records — Penalties.

(a) Each wholesale distributor and importer of spirituous liquors required to file a return shall keep such complete and accurate books, papers, invoices, and other records as may be necessary to substantiate the accuracy of his or her report and the amount of excise tax due and shall retain the records for not less than three (3) years, subject to the use and inspection of the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her agents.

(b) Any person required by this subchapter to retain books, papers, invoices, and other records who fails to produce them upon demand by the ~~director~~ **secretary** or his or her agent or agents of the Alcoholic Beverage Control Division or its successor agency, unless the failure to produce is due to providential or other causes beyond his or her control, shall be guilty of a Class A misdemeanor.

SECTION 3344. Arkansas Code § 3-7-307 is amended to read as follows:

<< AR ST § 3-7-307 >>

3-7-307. Rules and regulations — Sales to the military.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall continue the present, and if necessary promulgate additional, rules and regulations to relieve wholesale distributors and importers from the liability of paying the excise tax levied and imposed on beverages covered by this subchapter which are sold to agencies of the United States Armed Forces.

SECTION 3345. Arkansas Code § 3-7-404 is amended to read as follows:

<< AR ST § 3-7-404 >>

3-7-404. Rules and regulations.

(a) The rules and regulations required by § 3-7-401 pertaining to a reporting method for paying and collecting excise tax on beer shall be adopted and promulgated by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) The rules and regulations shall be jointly enforced by both the ~~Director~~ **Secretary** of the Department of Finance and Administration and the Alcoholic Beverage Control Board.

(c) The Director of the Alcoholic Beverage Control Division shall have authority to promulgate rules and regulations pertaining to the possession, transportation, or importation of beer into the State of Arkansas.

(d) The express purpose of this section is to carry out the intention of §§ 3-7-401 — 3-7-403 to provide authority for protecting the state against loss of revenues derived from the levy of the excise tax on beer. The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have full authority to adopt whatever rules and regulations he or she may deem necessary to this end.

SECTION 3346. Arkansas Code § 3-7-501(a), concerning the authorization of the Director of the Department of Finance and Administration to adopt rules and regulations, is amended to read as follows:

<< AR ST § 3-7-501 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized and directed to adopt and issue rules and regulations to protect the revenues of this state by prescribing a reporting method for paying and collecting the tax on wines.

SECTION 3347. Arkansas Code § 3-7-502 is amended to read as follows:

<< AR ST § 3-7-502 >>

3-7-502. Reports and payment.

The rules and regulations shall require reports to be filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration on or before the fifteenth day of the month following the month in which the wholesaler or importer of wines shall obtain delivery of wines from the supplier. The tax due shall accompany this report.

SECTION 3348. Arkansas Code § 3-7-505 is amended to read as follows:

<< AR ST § 3-7-505 >>

3-7-505. Joint enforcement.

The ~~Director~~ **Secretary** of the Department of Finance and Administration and the Alcoholic Beverage Control Division or its successor agency shall jointly enforce the provisions of this subchapter.

SECTION 3349. Arkansas Code § 3-9-213(c)(1), concerning the gross receipts and supplemental taxes on sale of alcoholic beverages, is amended to read as follows:

<< AR ST § 3-9-213 >>

(c)(1) The supplemental tax shall be reported and paid to the ~~Director~~ **Secretary** of the Department of Finance and Administration in the same manner and at the same time as the gross receipts tax and shall be subject to such reasonable rules and regulations as the ~~director~~ **secretary** may prescribe, including the maintenance of permanent records showing all purchases and sales of alcoholic beverages.

SECTION 3350. Arkansas Code § 3-9-223(c)(1), concerning private clubs, permit renewal fees, and taxes, is amended to read as follows:

<< AR ST § 3-9-223 >>

(c)(1) The supplemental tax shall be reported and paid to the ~~Director~~ **Secretary** of the Department of Finance and Administration in the same manner and at the same time as the gross receipts tax under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and shall be in addition to the tax.

SECTION 3351. Arkansas Code § 3-9-223(d), concerning private clubs, permit renewal fees, and taxes, is amended to read as follows:

<< AR ST § 3-9-223 >>

(d) The ~~director~~ **secretary** shall promulgate reasonable rules and regulations for the enforcement and collection of the tax levied herein, including a requirement that each permittee maintain records showing all such charges made.

SECTION 3352. Arkansas Code § 3-9-229 is amended to read as follows:

<< AR ST § 3-9-229 >>

3-9-229. Collection of taxes.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may assess and collect delinquent state and local taxes from the owner or owners of the hotel or restaurant, file claims for unpaid taxes against bonds or other security required to be posted by the permittee, and enforce liens against assets held by the owner or owners. The Alcoholic Beverage Control Division may suspend or refuse to renew a permit held by a nonpartner if the hotel or restaurant owner fails to remit state taxes.

SECTION 3353. Arkansas Code § 3-9-232(a), concerning the inspection and records of licensed premises and private clubs, is amended to read as follows:

<< AR ST § 3-9-232 >>

(a) No permit shall be issued under this subchapter unless the permittee has consented in writing that the licensed premises and its books and records shall be open at all times to all law enforcement and tax officials and officials of the Alcoholic Beverage Control Division, the Alcoholic Beverage Control Enforcement Division, and the ~~Director~~ **Secretary** of the Department of Finance and Administration without requirement of warrant or other legal process.

SECTION 3354. Arkansas Code § 3-9-234(b), concerning the failure to pay renewal fees or taxes, is amended to read as follows:

<< AR ST § 3-9-234 >>

(b) If any permittee shall fail to remit the supplemental tax upon gross receipts within the time provided in § 3-9-223, a penalty of twenty-five percent (25%) shall be due and payable. If such taxes plus penalty are not paid within thirty (30) days from the due date, the Director of the Alcoholic Beverage Control Division shall revoke the permit of the permittee,

and the ~~Director~~ **Secretary** of the Department of Finance and Administration shall seek recovery of the amount of such taxes and penalties due from the permittee.

SECTION 3355. Arkansas Code § 4-60-102 is amended to read as follows:

<< AR ST § 4-60-102 >>

4-60-102. Applicability.

This chapter does not apply to the laws governing the imposition of a penalty for checks written on accounts which have insufficient funds and which checks are payable to either the ~~Director~~ **Secretary** of the Department of Finance and Administration or to the Department of Finance and Administration for any taxes, licenses, or fees imposed by any laws of this state.

SECTION 3356. Arkansas Code § 4-90-206(a)(4), concerning the disclosure requirements when transferring a motor vehicle, is amended to read as follows:

<< AR ST § 4-90-206 >>

(4) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall adopt, pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., rules not inconsistent with this subchapter or Title 49, Chapter 327 of the United States Code, or any rules promulgated thereunder prescribing the manner in which the written disclosure shall be made.

SECTION 3357. Arkansas Code § 4-90-206(b)(2)(B), concerning the disclosure requirements when transferring a motor vehicle, is amended to read as follows:

<< AR ST § 4-90-206 >>

(B) The ~~director~~ **secretary** shall adopt, pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., rules not inconsistent with this subchapter or Title 49, Chapter 327 of the United States Code, or any rules promulgated thereunder prescribing the form of the power of attorney.

SECTION 3358. Arkansas Code § 5-65-102(6), concerning the definition of “sworn report” under the Omnibus DWI or BWI Act, is amended to read as follows:

<< AR ST § 5-65-102 >>

(6) “Sworn report” means a signed and written statement of a certified law enforcement officer, under penalty of perjury, on a form provided by the ~~Director~~ **Secretary** of the Department of Finance and Administration;

SECTION 3359. Arkansas Code § 5-65-106(b), concerning the impoundment of license plates, is amended to read as follows:

<< AR ST § 5-65-106 >>

(b) If the court determines it is in the best interest of the dependents of the person, the court shall instruct the ~~Director~~ **Secretary** of the Department of Finance and Administration to issue a temporary substitute motor vehicle license plate

for the motor vehicle, and the temporary substitute motor vehicle license plate shall indicate that the original motor vehicle license plate has been impounded.

SECTION 3360. Arkansas Code § 5-65-401(3), concerning the definition of “sworn report” under the laws governing an administrative driver’s license suspension, is amended to read as follows:

<< AR ST § 5-65-401 >>

(3) “Sworn report” means a signed and written statement of a certified law enforcement officer, under penalty of perjury, on a form provided by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3361. Arkansas Code § 5-65-402(c)(1)(C), concerning the surrender of a license or a permit to an arresting officer, is amended to read as follows:

<< AR ST § 5-65-402 >>

(C) The petition shall be served on the ~~Director~~ **Secretary** of the Department of Finance and Administration under Rule 4 of the Arkansas Rules of Civil Procedure.

SECTION 3362. Arkansas Code § 5-65-403(d)(1)(B), concerning a notice and a receipt from an arresting officer, is amended to read as follows:

<< AR ST § 5-65-403 >>

(B) Submitted by mail or in person to the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her designated representative within seven (7) days of the issuance of the receipt.

SECTION 3363. Arkansas Code § 5-65-403(k), concerning a notice and a receipt from an arresting officer, is amended to read as follows:

<< AR ST § 5-65-403 >>

(k) If the ~~director~~ **secretary** orders immobilization of a motor vehicle, notice of immobilization shall be sent by first-class mail to any persons, other than the arrested person, listed as an owner or co-owner of the immobilized motor vehicle in the records of the Office of Motor Vehicle.

SECTION 3364. Arkansas Code § 6-13-618(b)(3), concerning the organization and disbursing officer for school district boards of directors, is amended to read as follows:

<< AR ST § 6-13-618 >>

(3) Such a resolution must be filed with the county treasurer and the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3365. Arkansas Code § 6-13-1006(d)(9)(C), concerning the board of directors of education service cooperatives, is amended to read as follows:

<< AR ST § 6-13-1006 >>

(C) Borrowing from other sources for limited or unusual circumstances upon approval of the Commissioner of **Elementary and Secondary** Education and ~~Director~~ **the Secretary** of the Department of Finance and Administration; and

SECTION 3366. Arkansas Code § 6-17-406 is amended to read as follows:

<< AR ST § 6-17-406 >>

6-17-406. License revocation generally — Superintendents and supervisors.

The State Board of Education may revoke the license of any superintendent or supervisor in any and every instance where the ~~Director~~ **Secretary** of the Department of Finance and Administration has found it necessary to proceed upon the bond of the superintendent or supervisor to recover funds wrongfully used. Revocation shall be mandatory in any and every instance where there is recovery on the bond.

SECTION 3367. Arkansas Code § 6-17-911(b) and (c), concerning the effect of failure to make records and settlements, are amended to read as follows:

<< AR ST § 6-17-911 >>

(b) If the county collector fails to make settlements with the county treasurer as now provided by law, the county treasurer shall forthwith notify the Commissioner of **Elementary and Secondary** Education and the ~~Director~~ **Secretary** of the Department of Finance and Administration of such failure.

(c)(1) If such delinquent settlement is not made within two (2) weeks, the Treasurer of State shall withhold the monthly distribution of county aid provided for under § 19-5-602(b) upon notification from the ~~Director~~ **Secretary** of the Department of Finance and Administration that the county has failed to make such settlement.

(2) The monthly distribution shall be withheld until such settlement is made to the satisfaction of the ~~director~~ **secretary**.

SECTION 3368. Arkansas Code § 6-21-104 is amended to read as follows:

<< AR ST § 6-21-104 >>

6-21-104. Distribution of surplus commodities in school lunch program.

Upon the request of the State Board of Education and with the approval of the ~~Director~~ **Secretary** of the Department of Finance and Administration, the Department of Finance and Administration may administer the program of distribution of surplus commodities in the school lunch program under such arrangements with respect to the employment of personnel and the payment of the salaries of personnel, and maintenance, as may be mutually agreeable with the agencies above mentioned.

SECTION 3369. Arkansas Code § 8-7-906(e), concerning petroleum environmental assurance fees, is amended to read as follows:

<< AR ST § 8-7-906 >>

(e) The fee shall be remitted to the ~~Director~~ **Secretary** of the Department of Finance and Administration at the time, in the manner, and on forms prescribed by the ~~director~~ **secretary** and may be collected and remitted at the same time and in the same manner as the motor fuels tax and special motor fuels tax under § 26-55-101 et seq. and the Special Motor Fuels Tax Law, § 26-56-101 et seq.

SECTION 3370. Arkansas Code § 8-7-906(g)(3), concerning petroleum environmental assurance fees, is amended to read as follows:

<< AR ST § 8-7-906 >>

(3) The commission shall review the Petroleum Storage Tank Trust Fund balance, as adjusted to reflect the obligations and liabilities of the Petroleum Storage Tank Trust Fund, at least quarterly and report the rate of collection for the fee for the upcoming quarter to the ~~director~~ **secretary**.

SECTION 3371. The introductory language of Arkansas Code § 9-6-110 is amended to read as follows:

<< AR ST § 9-6-110 >>

The ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her designee shall provide an annual report by October 1 of each year to the Chair of the Senate Interim Committee on Children and Youth and the Chair of the House Committee on Aging, Children and Youth, Legislative and Military Affairs containing the following information:

SECTION 3372. Arkansas Code § 10-3-220 is amended to read as follows:

<< AR ST § 10-3-220 >>

10-3-220. Monitoring of changes made in federal income tax laws and regulations — Reports of director secretary.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall monitor changes made in federal income tax laws and regulations for the purpose of determining how the changes may affect Arkansas income tax law and for the purpose of determining how the changes differ from provisions adopted for Arkansas income tax purposes.

(b) The ~~director~~ **secretary** shall report his or her findings annually to the House Committee on Revenue and Taxation and the Senate Committee on Revenue and Taxation and may make such other reports to the House Committee on Revenue and Taxation and the Senate Committee on Revenue and Taxation as he or she deems necessary.

SECTION 3373. Arkansas Code § 10-4-410(c), concerning audit costs incurred by Arkansas Legislative Audit, is amended to read as follows:

<< AR ST § 10-4-410 >>

(c) If it is determined by the Legislative Joint Auditing Committee that the reimbursement for the auditing of entities of the state is appropriate, the Legislative Auditor and the ~~Director~~ **Secretary** of the Department of

Finance and Administration shall develop guidelines for effecting proper budgetary and accounting procedures for the reimbursements.

SECTION 3374. Arkansas Code § 12–8–307(c)(2) and (3), concerning lease funds and pledged revenues, are amended to read as follows:

<< AR ST § 12–8–307 >>

(2) The pledged revenues shall be deposited into a bank or banks selected by the ~~Department~~ **Division** of Arkansas State Police, as and when 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 ~~Director~~ **Secretary** of the Department of Finance and Administration, or any other state agency.

(3) The pledged revenues shall be deposited to the credit of a fund created and designated as the ~~Department~~ “**Division** of Arkansas State Police Communications Equipment Lease Fund”, referred to in this subchapter as the “lease fund”.

SECTION 3375. Arkansas Code § 12–10–326(d)(1), concerning prepaid wireless E911 service charges, is amended to read as follows:

<< AR ST § 12–10–326 >>

(d)(1) Except as provided in subdivision (d)(2) of this section, a seller shall report and pay one hundred percent (100%) of the prepaid wireless E911 charge plus any penalties and interest due to the ~~Director~~ **Secretary** of the Department of Finance and Administration in the same manner and at the same time as the gross receipts tax under the Arkansas Gross Receipts Act of 1941, § 26–52–101 et seq.

SECTION 3376. Arkansas Code § 12–30–304 is amended to read as follows:

<< AR ST § 12–30–304 >>

12–30–304. Products — Purchase by state institutions.

(a) It shall be the duty of the various state institutions to purchase, as far as possible, products grown or produced by the state upon its ~~Department~~ **Division** of Correction and other farms, giving the state preference wherever possible.

(b)(1) Sales shall be made at prevailing market prices and all proceeds thereof shall be deposited with the Treasurer of State to the credit of the ~~Department~~ **Division** of Correction Farm Fund.

(2) However, the ~~Director~~ **Secretary** of the Department of Finance and Administration, by proper bookkeeping entries, may charge the institution so purchasing and credit the ~~Department~~ **Division** of Correction account with such amount.

SECTION 3377. Arkansas Code § 13–7–304 is amended to read as follows:

<< AR ST § 13–7–304 >>

13–7–304. Commission accounts.

The members of the Historic Arkansas Museum Commission shall keep strict account of all moneys received and disbursed by them and by their order and shall file a statement thereof annually with the ~~Director~~ **Secretary** of the

Department of Finance and Administration, who shall properly check and audit the statement of account and the books of the commission.

SECTION 3378. Arkansas Code § 14-43-607(e), concerning income taxes, is amended to read as follows:

<< AR ST § 14-43-607 >>

(e)(1)(A) The governing body of any city levying the tax authorized in this section and the ~~Director~~ **Secretary** of the Department of Finance and Administration are authorized and empowered to enter into a contractual agreement whereby the ~~director~~ **secretary** shall collect any of the taxes assessed by the city, whether by withholding of income tax or otherwise, and remit them to the city.

(B) This agreement may also provide for a consideration to be allowed the ~~director~~ **secretary** for services rendered in making such collections.

(2) The ~~director~~ **secretary** may establish regulations concerning the procedures for collecting these taxes by him or her.

SECTION 3379. Arkansas Code § 14-86-2003 is amended to read as follows:

<< AR ST § 14-86-2003 >>

14-86-2003. Scope of examination.

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration or any auditors appointed by him **or her** shall have power to make a thorough examination into the affairs of a district specified in § 14-86-2001 when called upon by the county judge.

(2)(A) The ~~director~~ **secretary** shall have access to all records, books, accounts, papers, and documents concerning the district undergoing such an audit.

(B) The ~~director~~ **secretary** is also authorized to:

(i) Examine, under oath, any officer, assistant, clerk, or other person touching the matters he **or she** may be authorized to inquire and examine; and

(ii) Summon and, by attachment, compel the attendance of any person to testify, under oath, before him **or her** in relation to the affairs of the district.

(b) The failure or refusal of any person to appear before the ~~director~~ **secretary** or to deliver to him **or her** any books, records, or other documents shall subject the person to a fine of twenty-five dollars (\$25.00) for each day he **the person** refuses or fails to comply with the request.

SECTION 3380. Arkansas Code § 14-164-303(6), concerning the definition of “director” under the Local Government Bond Act of 1985, is repealed.

<< AR ST § 14-164-303 >>

(6) “Director” means the ~~Director of the Department of Finance and Administration or any successor to the duties thereof and any authorized agent thereof;~~

SECTION 3381. Arkansas Code § 14-164-325 is amended to read as follows:

<< AR ST § 14-164-325 >>

14-164-325. Taxes not state revenues.

It is the express intent of the General Assembly that any tax levied under the authority of this subchapter by a municipality or county to finance capital improvements of a public nature or economic development projects shall not constitute revenues of the state within the meaning of any constitutional or statutory provisions, but the tax levied under this subchapter shall at all times continue to be revenues of the particular municipality or county notwithstanding the participation or involvement, for the convenience of administration, by the ~~Director~~ **Secretary** of the Department of Finance and Administration or the Treasurer of State in the manner authorized in this subchapter in any phase of collection, holding, or distribution of proceeds of any tax authorized under this subchapter.

SECTION 3382. Arkansas Code § 14-164-327(b), concerning capital improvement bonds, local sales and use taxes, and levy, is amended to read as follows:

<< AR ST § 14-164-327 >>

(b) A certified copy of the ordinance or ordinances authorizing the levy of a local sales and use tax or taxes and the issuance of bonds secured by the taxes shall be provided to the ~~Director~~ **Secretary** of the Department of Finance and Administration and to the Treasurer of State as soon as practicable after the adoption of the taxes.

SECTION 3383. Arkansas Code § 14-164-329(a), concerning capital improvement bonds, local sales and use tax , effective dates for imposition, and termination of tax levy, is amended to read as follows:

<< AR ST § 14-164-329 >>

(a) The levy of a local sales and use tax shall not be effective until after the election has been held and the issuance of bonds has been approved by the voters and the ~~Director~~ **Secretary** of the Department of Finance and Administration has been given ninety (90) days' notice.

SECTION 3384. The introductory language of Arkansas Code § 14-164-329(b), concerning capital improvement bonds, local sales and use tax , effective dates for imposition, and termination of tax levy, is amended to read as follows:

<< AR ST § 14-164-329 >>

(b) In order to provide time for the preparations for election set forth in this section and to provide for the accomplishment of the administrative duties of the ~~director~~ **secretary**, the following effective dates are applicable with reference to any such ordinance levying such tax:

SECTION 3385. Arkansas Code § 14-164-329(b)(1), concerning capital improvement bonds, local sales and use tax, effective dates for imposition, and termination of tax levy, is amended to read as follows:

<< AR ST § 14-164-329 >>

(1)(A) If an election challenge is not filed within thirty (30) days of the date of publication of the proclamation of the results of the election, the tax shall become effective on the first day of the first month of the calendar quarter after

the expiration of the thirty-day period for challenge and after a minimum of sixty (60) days' notice has been provided by the ~~director~~ **secretary** to sellers unless delayed under subdivision (b)(3) of this section.

(B) A rate change on a purchase from a printed catalog in which the purchaser computed the tax based on local tax rates published in the catalog will be applicable on the first day of a calendar quarter after a minimum of one hundred twenty (120) days' notice by the ~~director~~ **secretary** to the sellers.

(C) For sales and use tax purposes only, a local boundary change will become effective on the first day of a calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers.

SECTION 3386. Arkansas Code § 14-164-329(c)(2) and (3), concerning capital improvement bonds, local sales and use tax, effective dates for imposition, and termination of tax levy, are amended to read as follows:

<< AR ST § 14-164-329 >>

(2) In order to provide for the accomplishment of the administrative duties of the ~~director~~ **secretary** and to protect the owners of the bonds, the tax shall be abolished on the first day of the calendar quarter after the expiration of ninety (90) days from the date there is filed with the ~~director~~ **secretary** a written statement signed by the chief executive officer of the municipality or county levying the tax and by the trustee for the bondholders, if a trustee is serving in such capacity, identifying the tax and the bonds, in which either:

(A) The trustee certifies that the trustee has or will have sufficient funds set aside to pay the principal of and interest on the bonds when due at maturity or at redemption before maturity and the municipality or county levying the tax certifies that the tax is not pledged to any other bonds of such municipality or county; or

(B) The municipality or county levying the tax certifies that there are no longer any bonds outstanding payable from tax collections.

(3) In the case of subdivision (c)(2)(B) of this section, there shall be attached to the written statement proof satisfactory to the ~~director~~ **secretary** that there are no longer any bonds outstanding payable from tax collections.

SECTION 3387. Arkansas Code § 14-164-330 is amended to read as follows:

<< AR ST § 14-164-330 >>

14-164-330. Capital improvement bonds — Local sales and use tax — Notice to Director Secretary of the Department of Finance and Administration.

As soon as is feasible and no later than ten (10) days following each of the events set forth in the ordinance with reference to the procedure for the adoption or abolition of the local sales and use tax and the effective dates of the action, the clerk shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of such event.

SECTION 3388. Arkansas Code § 14-164-333(a)(2), concerning capital improvement bonds, local sales and use taxes, administration, and collection, is amended to read as follows:

<< AR ST § 14-164-333 >>

(2)(A) 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, as provided in §§ 26-74-201 — 26-74-219, 26-74-221, 26-74-315 — 26-74-317, 26-75-201 — 26-75-221, 26-75-223, 26-75-317, and 26-75-318. Provided,

however, to the extent the provisions of § 14–164–329 conflict with any provisions of § 26–74–101 et seq. or § 26–75–101 et seq., or any other law, § 14–164–329 shall be deemed to supersede the conflicting statutes.

(B) The tax levied in this subchapter on new and used motor vehicles shall be collected by the ~~director~~ **secretary** directly from the purchaser in the manner prescribed in § 26–52–510.

SECTION 3389. Arkansas Code § 14–164–333(d), concerning capital improvement bonds, local sales and use taxes, administration, and collection, is amended to read as follows:

<< AR ST § 14–164–333 >>

(d)(1) 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. 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. 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. This provision applies only to taxes collected by the ~~director~~ **secretary**.

(2) Each vendor who is liable for one (1) or more county sales or use taxes shall report a combined county sales tax and a combined county use tax on his or her sales and use tax report. The combined county sales tax is equal to the sum of all sales taxes levied by a county under this subchapter or any other provision of the Arkansas Code. The combined county use tax is equal to the sum of all use taxes levied by a county under this subchapter or any other provision of the Arkansas Code. This provision applies only to taxes collected by the ~~director~~ **secretary**.

SECTION 3390. Arkansas Code § 14–164–337(f)(1), concerning the pledge of preexisting sales and use taxes, is amended to read as follows:

<< AR ST § 14–164–337 >>

(f)(1) Any moneys collected which, as indicated by a certified copy of an ordinance of the municipality or county previously filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration and the Treasurer of State, are pledged, under the provisions of any act, to secure the retirement of bonds authorized by this subchapter, shall be transmitted by the ~~director~~ **secretary** to the Treasurer of State.

SECTION 3391. Arkansas Code § 14–164–339(e)(1), concerning the simultaneous pledge of local sales and use taxes, is amended to read as follows:

<< AR ST § 14–164–339 >>

(e)(1) Any moneys collected which, as indicated by a certified copy of an ordinance of the municipality or county previously filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration and the Treasurer of State, are pledged, under the provisions of any act, to secure the retirement of bonds authorized by this subchapter, shall be transmitted by the ~~director~~ **secretary** to the Treasurer of State.

SECTION 3392. Arkansas Code § 14–164–341(d), concerning bonds for surface transportation projects, is amended to read as follows:

<< AR ST § 14–164–341 >>

(d) A certified copy of the ordinance authorizing the issuance of bonds under this section shall be filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration and the Treasurer of State as soon as practicable after the approval of the issuance of the bonds by the voters.

SECTION 3393. Arkansas Code § 14-174-102(3), concerning the definition of “director” under the laws governing the economic development tax, is repealed.

<< AR ST § 14-174-102 >>

(3) “Director” means the ~~Director~~ of the Department of Finance and Administration or any of his authorized agents;

SECTION 3394. Arkansas Code § 14-174-109(b)(1), concerning public corporations for economic development, is amended to read as follows:

<< AR ST § 14-174-109 >>

(b)(1) On receipt from the ~~Director~~ **Secretary** of the Department of Finance and Administration of the net proceeds of the sales and use tax levied or authorized under this subchapter, the local government shall deliver all of the proceeds to the corporation to use in carrying out its functions.

SECTION 3395. Arkansas Code § 15-4-1210(c), concerning the commencement and continuation of existence regarding a newly formed company, is amended to read as follows:

<< AR ST § 15-4-1210 >>

(c) A copy of the articles of incorporation or articles of organization so endorsed by the commissioner, as prescribed in § 15-4-1209, shall be filed for recordation in the office of the county clerk in the county in which the principal office of the company is located, and a copy shall be delivered to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3396. Arkansas Code § 15-4-1227(f), concerning the dissolution of a company formed under the County and Regional Industrial Development Company Act, is amended to read as follows:

<< AR ST § 15-4-1227 >>

(f) A copy of the certificate of dissolution as accepted and endorsed by the commissioner, as prescribed in subsection (c) of this section, shall be filed for recordation in the office of the county clerk in the county in which the principal office of the company is located, and a copy shall be delivered to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3397. Arkansas Code § 15-4-1228(d), concerning investigations by the Bank Commissioner or Securities Commissioner and injunctions, is amended to read as follows:

<< AR ST § 15-4-1228 >>

(d) A copy of all reports of the investigation or other proceedings conducted pursuant to this section shall be forwarded to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3398. Arkansas Code § 15-4-2008(a)(3), concerning the disbursement of motion picture rebate incentives, is amended to read as follows:

<< AR ST § 15-4-2008 >>

(3) Provide certification to the ~~Director~~ **Secretary** of the Department of Finance and Administration specifying the amount to be remitted to the production company within one hundred twenty (120) days after the final expenditure report has been submitted.

SECTION 3399. The introductory language of Arkansas Code § 15-4-2008(b), concerning the disbursement of motion picture rebate incentives, is amended to read as follows:

<< AR ST § 15-4-2008 >>

(b) The ~~director~~ **secretary**, within ten (10) working days after the receipt of the certification from the division, shall remit the rebate to:

SECTION 3400. Arkansas Code § 15-5-1203(5) and (6), concerning the definitions of “director” and “pledged fees” under the Petroleum Storage Tank Trust Fund Bond Financing Act, are amended to read as follows:

<< AR ST § 15-5-1203 >>

(5) “~~Director~~” means the ~~Director~~ of the Department of Finance and Administration;

(6) “Pledged fees” means the fees collected by the ~~director~~ **Secretary of the Department of Finance and Administration** pursuant to § 8-7-906;

SECTION 3401. 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:

<< AR ST § 15-5-1205 >>

(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 3402. Arkansas Code § 15-5-1302(5), concerning the definition of “director” under the Affordable Neighborhood Housing Tax Credit Act of 1997, is repealed.

<< AR ST § 15-5-1302 >>

(5) “~~Director~~” means the ~~Director~~ of the Department of Finance and Administration;

SECTION 3403. 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:

<< AR ST § 15–5–1303 >>

(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 3404. Arkansas Code § 15–5–1305 is amended to read as follows:

<< AR ST § 15–5–1305 >>

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 regulations necessary to administer the provisions of this subchapter. No rule or portion of a rule promulgated under the authority of this subchapter shall become effective until it has been approved by the ~~director~~ **secretary** in accordance with the Arkansas Administrative Procedure Act, § 25–15–201 et seq.

SECTION 3405. Arkansas Code § 15–5–1603(5), concerning the definition of “review committee” under the Arkansas Risk Capital Matching Fund Act of 2007, is amended to read as follows:

<< AR ST § 15–5–1603 >>

(5) “Review committee” means a committee composed of the President of the Arkansas Development Finance Authority and the ~~Executive~~ Director of the Arkansas Economic Development Commission;

SECTION 3406. Arkansas Code § 15–5–1603(8), concerning the definition of “Venture Capital Investment Trust” under the Arkansas Risk Capital Matching Fund Act of 2007, is amended to read as follows:

<< AR ST § 15–5–1603 >>

(8) “Venture Capital Investment Trust” means the public trust formed July 21, 2003, under § 28–72–201 et seq., the trustees of which are the President of the Arkansas Development Finance Authority, the ~~Executive~~ Director of the Arkansas Economic Development Commission, and the ~~Director~~ **Secretary** of the Department of Finance and Administration, and that has as a principal purpose increasing the availability of equity capital and near-equity capital for emerging and expanding enterprises in the State of Arkansas.

SECTION 3407. Arkansas Code § 15–11–507 is amended to read as follows:

<< AR ST § 15–11–507 >>

15–11–507. Tourism attraction project sales tax credit.

(a) Upon receiving notification from the ~~Executive~~ Director of the Arkansas Economic Development Commission that an approved company has entered into a tourism attraction project agreement and is entitled to the sales tax credits provided by this subchapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide the approved company with such forms and instructions as are necessary to claim those credits.

(b)(1)(A)(i)(a) An approved company shall be entitled to a credit if the approved company certifies to the ~~Director~~ **Secretary** of the Department of Finance and Administration that it has expended at least five hundred thousand dollars (\$500,000) in a high-unemployment county and one million dollars (\$1,000,000) in all other counties in approved costs and the ~~Executive~~ Director of the Arkansas Economic Development Commission certifies that the approved company is in compliance with this subchapter.

(b)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall then issue a sales tax credit memorandum to the approved company equal to fifteen percent (15%) of the approved costs.

(2) However, in high-unemployment counties the ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a credit memorandum to the approved company equal to twenty-five percent (25%) of the approved costs.

(c) The sales tax credit memorandum shall not include an offset of the tourism tax levied under § 26–63–401 et seq.

(ii) Subsequent requests for credit for additional certified approved costs shall be filed with the Department of Finance and Administration during the term of the agreement.

(B)(i) The ~~Director~~ **Secretary** of the Department of Finance and Administration may require proof of expenditures.

(ii) Additional credit memoranda may be issued as the approved company certifies additional expenditures of approved costs.

(2)(A) No sales tax credit memorandum shall be issued for any approved costs expended after the expiration of two (2) years from the date the agreement was signed by the ~~Executive~~ Director of the Arkansas Economic Development Commission and the approved company.

(B) However, the ~~Executive~~ Director of the Arkansas Economic Development Commission, with the advice and consent of the ~~Director~~ **Secretary** of the Department of Finance and Administration, may authorize sales tax credits for approved costs expended up to four (4) years from the date the agreement was signed if the ~~Executive~~ Director of the Arkansas Economic Development Commission determines that the failure to complete the tourism attraction project within two (2) years resulted from:

(i) Unanticipated and unavoidable delay in the construction of the tourism attraction project;

(ii) The tourism attraction project, as originally planned, will require more than two (2) years to complete;
or

(iii) A change in business ownership or business structure resulting from a merger or acquisition.

(c) The credit memorandum issued pursuant to subsection (b) of this section may be used to offset a portion of the reported state sales, or gross receipts, tax liability of the approved company for all sales tax reporting periods following the issuance of the credit memorandum, subject to the following limitations:

- (1) Only increased state sales tax liability as defined in this subchapter may be offset by the issued credit;
- (2)(A) An approved company whose agreement provides that it shall expend approved costs in excess of five hundred thousand dollars (\$500,000) in a high-unemployment county and one million dollars (\$1,000,000) in all other counties shall be entitled to use one hundred percent (100%) of the issued credit to offset increased state sales tax liability during the first year if its tax liability is equal to or greater than the amount issued in the state sales tax credit memorandum.
- (B) Unused credits may be carried forward for a period of nine (9) years;
- (3) All issued credit memoranda shall expire at the end of the month following the expiration of the agreement as provided in § 15-11-506; and
- (4) Except as provided in § 15-11-511, credit memoranda shall not be used to offset any tax other than state sales tax.
- (d) The approved company shall have no obligation to refund or otherwise return any amount of this credit to the person from whom the sales tax was collected.
- (e) By April 1 of each year, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall certify to the ~~Executive~~ Director of the Arkansas Economic Development Commission the state sales tax liability of the approved companies receiving inducements under this section and the amount of state sales tax credits taken during the preceding calendar year.
- (f)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate administrative regulations as are necessary for the proper administration of this subchapter.
- (2) The ~~Director~~ **Secretary** of the Department of Finance and Administration may also develop such forms and instructions as are necessary for an approved company to claim the sales tax credit provided by this subchapter.
- (g)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the authority to obtain any information necessary from the approved company and the ~~Executive~~ Director of the Arkansas Economic Development Commission to verify that approved companies have received the proper amounts of sales tax credits as authorized by this subchapter.
- (2) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall demand the repayment of any credits taken in excess of the credit allowed by this subchapter.

SECTION 3408. Arkansas Code § 15-12-103(a), concerning disposition of revenues and grants, is amended to read as follows:

<< AR ST § 15-12-103 >>

- (a) All revenues derived from the additional tax levied by § 26-60-105(b) shall be deposited by the ~~Director~~ **Secretary** of the Department of Finance and Administration into the State Treasury as special revenues.

SECTION 3409. Arkansas Code § 15-12-103(b)(2), concerning disposition of revenues and grants, is amended to read as follows:

<< AR ST § 15-12-103 >>

(2) Ten percent (10%) of the net amount shall be distributed to the Parks and Tourism Fund Account, to be used by the Department of Parks, **Heritage**, and Tourism, on approval of the Parks, Recreation, and Tourism Grant Advisory Committee, for making grants for outdoor recreational purposes to cities and counties of this state in accordance with the plan; and

SECTION 3410. The introductory language of Arkansas Code § 15–13–203, concerning allowances for variance of the biofuel standard, is amended to read as follows:

<< AR ST § 15–13–203 >>

The ~~Director~~ **Secretary** of the Department of Finance and Administration may grant a waiver for a variance from the biofuel standard under § 15–13–202 if the applicant demonstrates one (1) or more of the following:

SECTION 3411. Arkansas Code § 15–13–205 is amended to read as follows:

<< AR ST § 15–13–205 >>

15–13–205. Rules.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules and regulations to provide for the administration of this subchapter.

SECTION 3412. Arkansas Code § 15–72–608(b), concerning the rules and regulations concerning taxes and credits for natural gas, is amended to read as follows:

<< AR ST § 15–72–608 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have authority to make reasonable rules and regulations for the collection of the taxes and allowance of credit as provided in this subchapter.

SECTION 3413. Arkansas Code § 15–74–401(a)(2), regarding penalties for the sale of nontested gasoline, is amended to read as follows:

<< AR ST § 15–74–401 >>

(2) Fails to comply with all the requirements of any section of this subchapter or rules and regulations promulgated by the ~~Director~~ **Secretary** of the Department of Finance and Administration under authority of this subchapter.

SECTION 3414. Arkansas Code § 15–74–401(b), regarding penalties for the sale of nontested gasoline, is amended to read as follows:

<< AR ST § 15–74–401 >>

(b) However, the ~~director~~ **secretary**, or any of his or her deputies or inspectors, shall have the power to compromise the penalty herein fixed by imposing the penalty as the merits of the case demand.

SECTION 3415. Arkansas Code § 15–74–402 is amended to read as follows:

<< AR ST § 15-74-402 >>

15-74-402. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have authority to promulgate such rules and regulations in regard to the enforcement of this subchapter as shall not be inconsistent with the provisions of the subchapter which in his or her judgment will best serve to carry out the purpose thereof.

SECTION 3416. Arkansas Code § 15-74-408 is amended to read as follows:

<< AR ST § 15-74-408 >>

15-74-408. Inspection of dealer records.

The person, firm, or corporation who receives motor vehicle fuel must keep in his or her possession and file in an orderly manner statements showing distillation tests, bills of lading, or invoices, as the case may be, covering each quantity received, and those items are to be subject to inspection by the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her authorized agents.

SECTION 3417. Arkansas Code § 15-74-409(c), concerning the testing of oil or gasoline prior to sale, is amended to read as follows:

<< AR ST § 15-74-409 >>

(c) When any person, firm, or corporation shall receive within this state any of the petroleum oils mentioned in this subchapter for the different purposes mentioned in this subchapter, he or she shall at once notify the ~~Director~~ **Secretary** of the Department of Finance and Administration, or one (1) of his or her deputies or inspectors, of the quantity of the oils received and request the inspection of the oils. If for any reason the deputies or inspectors are not able to promptly test the petroleum oils, the person, firm, or corporation, or any authorized agent thereof, may subject the products of petroleum to the test prescribed by the provisions of this subchapter, and on furnishing the ~~director~~ **secretary**, or any deputy or inspector, an affidavit that the oils have been subjected to and have met the requirements of the test prescribed by this subchapter, he or she shall be entitled to receive from the ~~director~~ **secretary**, or deputy or inspector, a certificate showing that the test has been made. The person, firm, or corporation, or any duly authorized agent thereof, may then sell or offer for sale the oils.

SECTION 3418. Arkansas Code § 15-74-410 is amended to read as follows:

<< AR ST § 15-74-410 >>

15-74-410. Records of inspections — Disposition of funds.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration, or his or her deputies or inspectors, whose duty it is to enforce this subchapter, shall keep a correct record of all oils and fluids inspected by them in a book provided for by the state for that purpose. They shall have the power to make any necessary investigation to determine whether or not any oils have been inspected before being offered for sale.

(b) The ~~director~~ **secretary**, his or her deputies, or his or her inspectors, shall have the right to administer oaths and inspect any and all records having reference to the receiving, forwarding, transportation, or sale of any oils or fluids.

(c) All records kept by the ~~director~~ **secretary**, or his or her deputies or inspectors, pertaining to the inspection of oils and fluids mentioned in this subchapter shall be open to the inspection of any interested party.

SECTION 3419. Arkansas Code § 17-21-101(3), concerning the definition of “director” under the laws governing beauty pageants, is repealed.

<< AR ST § 17-21-101 >>

(3) “Director” means the ~~Director of the Department of Finance and Administration;~~

SECTION 3420. Arkansas Code § 17-21-103 is amended to read as follows:

<< AR ST § 17-21-103 >>

17-21-103. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may adopt rules and regulations to administer the provisions of this chapter. The rules and regulations shall be adopted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 3421. Arkansas Code § 17-21-201(a), concerning the registration of operators, renewal, and fee, is amended to read as follows:

<< AR ST § 17-21-201 >>

(a) No person shall conduct a beauty pageant in Arkansas unless registered with the ~~Director~~ **Secretary** of the Department of Finance and Administration on forms prescribed by him or her. Registration in another state as a beauty pageant operator shall not be effective in this state.

SECTION 3422. Arkansas Code § 17-21-202 is amended to read as follows:

<< AR ST § 17-21-202 >>

17-21-202. Bond.

(a) Except as provided in § 17-21-203, each operator shall, at the time of registration, file and have approved by the ~~Director~~ **Secretary** of the Department of Finance and Administration, a bond in which the candidate for registration shall be the principal obligor in the sum of ten thousand dollars (\$10,000).

(b) The bond shall be payable to the State of Arkansas for the use of the ~~director~~ **secretary** and any person who may have a cause of action against the obligor of the bond for any losses caused by a failure to conduct a beauty pageant.

SECTION 3423. Arkansas Code § 17-21-205 is amended to read as follows:

<< AR ST § 17-21-205 >>

17-21-205. Denial, suspension, revocation of registration.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may deny, suspend, or revoke a registration for:

- (1) A violation of any of the provisions of this chapter; or
- (2) The making of a false statement on the registration application form.

SECTION 3424. Arkansas Code § 17-25-205 is amended to read as follows:

<< AR ST § 17-25-205 >>

17-25-205. Disposition of funds.

The fees of the Contractors Licensing Board shall be deposited into banks to be used by the board in the manner prescribed by law, similar to the accounts of other examining and licensing boards of the state, and shall be audited under rules and regulations prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3425. Arkansas Code § 17-52-313(a)(2), concerning the disposition of funds by the Secretary of the Arkansas Home Inspector Registration Board, is amended to read as follows:

<< AR ST § 17-52-313 >>

(2) The ~~secretary~~ **Secretary of the Arkansas Home Inspector Registration Board** shall institute a system of books and financial records satisfactory to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3426. Arkansas Code § 17-52-313(a)(4), concerning the disposition of funds by the Secretary of the Arkansas Home Inspector Registration Board, is amended to read as follows:

<< AR ST § 17-52-313 >>

(4) The ~~secretary~~ **Secretary of the Arkansas Home Inspector Registration Board** shall deposit all funds of the board that he or she receives with the State Treasury within forty-eight (48) hours, excluding holidays and Sundays, after he or she receives the funds.

SECTION 3427. Arkansas Code § 19-1-201 is amended to read as follows:

<< AR ST § 19-1-201 >>

19-1-201. Chief Fiscal Officer of the State.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall be the Chief Fiscal Officer of the State.

SECTION 3428. Arkansas Code § 19-1-202 is amended to read as follows:

<< AR ST § 19-1-202 >>

19-1-202. Director.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall be at least thirty (30) years of age, of good moral character, and of demonstrated ability in the field of his or her employment.

(b) Before entering upon his or her duties of employment, the ~~director~~ **Secretary of the Department of Finance and Administration** shall take, subscribe, and file in the office of the Secretary of State an oath or affirmation to support the United States Constitution and the Arkansas Constitution and to faithfully discharge the duties of the employment upon which he or she is about to enter.

(c)(1) The ~~director~~ **Secretary of the Department of Finance and Administration** shall furnish bond to the state, with a corporate surety thereon, in the penal sum of ten thousand dollars (\$10,000), conditioned upon the faithful performance of his or her duties and for the proper accounting for all funds received and disbursed by him or her.

(2) The ~~director~~ **Secretary of the Department of Finance and Administration** shall be the disbursing agent for the Department of Finance and Administration but shall not be required to furnish additional bond as that disbursing agent, nor shall he or she be required to furnish additional bond as disbursing agent of other appropriations for which he or she may be designated disbursing agent under or pursuant to any law of this state unless so directed by the General Assembly.

(3) The ~~director~~ **Secretary of the Department of Finance and Administration**, if he or she deems it advisable, may require other employees of his or her office to furnish bond, in such penal sums as he or she shall determine.

(4)(A) The original of the bond of the ~~director~~ **Secretary of the Department of Finance and Administration** shall be filed in the office of the Secretary of State, and an executed counterpart thereof shall be filed in the office of the Auditor of State.

(B) Any bonds which may be required of employees shall be filed with the ~~director~~ **Secretary of the Department of Finance and Administration**.

SECTION 3429. The introductory language of Arkansas Code § 19–1–203, concerning the Deputy Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 19–1–203 >>

The Deputy Director of the Department of Finance and Administration, acting under the authority granted to him or her by the ~~Director~~ **Secretary** of the Department of Finance and Administration, and under the laws relating to budget and accounting procedure, shall:

SECTION 3430. Arkansas Code § 19–1–204(a), concerning personnel of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 19–1–204 >>

(a) Except as otherwise provided for by this subchapter, all of the personnel of the Department of Finance and Administration shall be employed by and serve at the pleasure of the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3431. Arkansas Code § 19–1–206 is amended to read as follows:

<< AR ST § 19–1–206 >>

19–1–206. Seal.

The Governor shall procure an official seal for the Department of Finance and Administration. Every paper executed by the ~~Director~~ **Secretary** of the Department of Finance and Administration or by any other employee of the department and sealed with its official seal shall be received in evidence in any court or other tribunal and may be recorded in the same manner and with like effect as deeds regularly acknowledged.

SECTION 3432. The introductory language of Arkansas Code § 19–1–207, concerning a general accounting system to be enforced by the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 19–1–207 >>

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall:

SECTION 3433. Arkansas Code § 19–1–208 is amended to read as follows:

<< AR ST § 19–1–208 >>

19–1–208. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is vested with the authority to make such reasonable rules and regulations, not inconsistent with the law, as shall be necessary or desirable for the orderly discharge of the duties vested in the Department of Finance and Administration.

SECTION 3434. Arkansas Code § 19–1–209(a), concerning the publication of regulations, is amended to read as follows:

<< AR ST § 19–1–209 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall publish and furnish copies to all state agencies of such regulations as are issued by him or her, pursuant to the provisions of law, providing for a general accounting procedure.

SECTION 3435. The introductory language of Arkansas Code § 19–1–209(b), concerning the publication of regulations, is amended to read as follows:

<< AR ST § 19–1–209 >>

(b) The ~~director~~ **secretary** shall also publish, not less often than biennially, a financial report covering the fiscal affairs of the state and state agencies and shall make the report available to:

SECTION 3436. Arkansas Code § 19–1–210 is amended to read as follows:

<< AR ST § 19–1–210 >>

19–1–210. Recordkeeping.

(a) For the purpose of effectively carrying out the fiscal procedures provided for by law, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the authority to install such recordkeeping and other procedures in his or her own office and in other state offices and departments as he or she shall deem necessary or advisable.

(b) The ~~director~~ **secretary** shall have the authority to require from any state agency any fiscal information which will be necessary for providing adequate records in his or her office and shall prescribe uniform records and forms for all vouchers and other documents which are to be transmitted to the Department of Finance and Administration.

SECTION 3437. Arkansas Code § 19–1–211 is amended to read as follows:

<< AR ST § 19–1–211 >>

19–1–211. Investigations.

(a)(1) In any matter within the jurisdiction of the Department of Finance and Administration, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the power to make investigations and may delegate that power to any division or section head of the department.

(2) For this purpose, the ~~director~~ **secretary** shall have the power to subpoena witnesses and require the production of any books, records, papers, or documents that may be material or relevant as evidence and to administer oaths to and take the testimony of witnesses.

(b)(1) In case of disobedience to any subpoena or other process, the ~~director~~ **secretary** may invoke the aid, with the written approval of the Governor, of the Pulaski County Circuit Court in requiring the testimony of witnesses and the production of evidence, books, records, papers, or documents.

(2)(A) In case of refusal to obey the subpoena issued to any person, firm, or corporation, the circuit court shall issue an order calling such person, firm, or corporation to appear before the ~~director~~ **secretary** or other employee designated by the ~~director~~ **secretary** and to produce all books and papers so ordered and give evidence touching the matter in question.

(B) Any failure to obey the order of the circuit court may be punished by the circuit court as contempt of the circuit court.

(c) A subpoena for a witness may be issued by the ~~director~~ **secretary** or by any division or section head of the department in whom any such authority may have been vested by the ~~director~~ **secretary** and shall be served as provided by law for the service of other subpoenas.

(d)(1)(A) The failure or refusal of any witness to appear or to produce any books, papers, or documents required by the ~~director~~ **secretary** and to submit them for inspection or the refusal to answer any relevant question propounded by the ~~director~~ **secretary** shall constitute a violation punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(B) Each failure or refusal by any witness to appear or produce any such books, papers, or documents shall constitute a separate offense.

(2) False testimony given in any such inquiry shall constitute perjury punishable as provided by law.

SECTION 3438. The introductory language of Arkansas Code § 19–1–212, concerning the duty and responsibility of the Director of the Department of Finance and Administration to avoid deficit, is amended to read as follows:

<< AR ST § 19–1–212 >>

It shall be the duty and responsibility of the ~~Director~~ **Secretary** of the Department of Finance and Administration to:

SECTION 3439. Arkansas Code § 19–1–213(a), concerning the leasing of state property, is amended to read as follows:

<< AR ST § 19–1–213 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration may lease, with approval of the Governor, any state property, real or personal, which is not needed for public use, and the leasing of which is not prohibited by law, where the authority to lease the property is not vested in any other state agency.

SECTION 3440. Arkansas Code § 19–1–214 is amended to read as follows:

<< AR ST § 19–1–214 >>

19–1–214. Federal gifts and surplusage.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may enter into any contract with the United States of America **Government** or with any agency thereof for the purpose of accepting gifts and for the acquisition of surplus materials or property upon such terms and conditions as may be agreed upon without regard to the provisions of this subchapter or any other law that requires advertisement for bids or the soliciting or receiving of competitive bids.

SECTION 3441. Arkansas Code § 19–1–405 is amended to read as follows:

<< AR ST § 19–1–405 >>

19–1–405. State agency employees as disbursing agents.

(a)(1) In the event the executive head of any state agency designates some full-time employee to act as his or her agent in the disbursement of funds under his or her control, the agent shall furnish additional bond to be fixed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(2) The executive head of the state agency shall notify the ~~director~~ **secretary** and the Auditor of State in writing of the designation and shall furnish to the ~~director~~ **secretary** and the Auditor of State a sample of the signature of the agent.

(b) In the event appropriations are made available to a state agency or to a nongovernment agency or activity and no disbursing agent is provided for by law, then the ~~director~~ **secretary** and the Auditor of State shall designate a person to act as disbursing agent and fix the amount of bond for such purposes.

SECTION 3442. Arkansas Code § 19–1–608 is amended to read as follows:

<< AR ST § 19–1–608 >>

19–1–608. Notification of Department of Finance and Administration — Review.

(a) Within thirty (30) days after the expiration of the time period for the public officer or employee to effect corrective or remedial action, the agency shall transfer to the ~~Director~~ **Secretary** of the Department of Finance and Administration a document containing a summary of the violation and any corrective remedial action taken.

(b)(1) The ~~director~~ **secretary** shall review the summaries of violations received. The ~~director~~ **secretary** may:

(A) Accept the summary and approve the corrective or remedial action by the agency;

(B) Request additional information regarding the violation and corrective or remedial action by the agency; or

(C) Impose additional corrective or remedial action upon public officers and employees of executive agencies as provided in § 19–1–609.

(2) Quarterly, the ~~director~~ **secretary** shall submit a summary of all violations of the fiscal responsibility and management laws, including any corrective or remedial action by the agency or the ~~director~~ **secretary**, to the Governor and members of the General Assembly.

SECTION 3443. Arkansas Code § 19–1–609 is amended to read as follows:

<< AR ST § 19–1–609 >>

19–1–609. Executive agencies.

(a) Before the ~~Director~~ **Secretary** of the Department of Finance and Administration may impose additional corrective or remedial action regarding public officers or employees of executive agencies, the ~~director~~ **secretary** shall conduct an investigation regarding any violation. The public officer or employee shall be notified and given the opportunity for a hearing conducted by the ~~director~~ **secretary** regarding any violation.

(b) The ~~director~~ **secretary** may impose any one (1) or more of the following as additional corrective or remedial action:

- (1) Oral or written warnings or reprimands;
- (2) Suspension with or without pay for specified periods of time; or
- (3) Termination of employment.

SECTION 3444. Arkansas Code § 19–1–610(a), concerning an investigation and suit by the Attorney General, is amended to read as follows:

<< AR ST § 19–1–610 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration, the Legislative Joint Auditing Committee, or the Legislative Council may request the office of the Attorney General to review any information concerning any violation of the fiscal responsibility and management laws of the state in order to determine whether legal action is appropriate.

SECTION 3445. Arkansas Code § 19–2–203(a), concerning receipts by the Department of Finance and Administration and additional penalties, is amended to read as follows:

<< AR ST § 19–2–203 >>

(a) If any person, firm, corporation, partnership, or business makes payment to the Department of Finance and Administration for any license or fees imposed by the laws of this state by means of a check, draft, or order drawn on any bank, person, firm, or corporation, and the check, draft, or order is returned by the bank, person, firm, or corporation without having been paid in full, then the ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized and empowered to impose a penalty. The penalty shall be in the amount of either ten percent (10%) of the face amount of the check, draft, or order or twenty dollars (\$20.00), whichever is greater, against the maker or drawer of the check, draft, or order.

SECTION 3446. Arkansas Code § 19–2–307 is amended to read as follows:

<< AR ST § 19–2–307 >>

19–2–307. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to promulgate such rules and regulations as deemed necessary to implement the provisions and intent of this subchapter.

SECTION 3447. Arkansas Code § 19–3–701(b)(5), concerning the creation and members of the State Board of Finance, is amended to read as follows:

<< AR ST § 19–3–701 >>

(5) The ~~Director~~ **Secretary** of the Department of Finance and Administration;

SECTION 3448. Arkansas Code § 19–4–102(a)(2)(J), concerning the purpose of the General Accounting and Budgetary Procedures Law, is amended to read as follows:

<< AR ST § 19–4–102 >>

(J) Further define the powers and duties of the ~~Director~~ **Secretary** of the Department of Finance and Administration, sometimes referred to as the Chief Fiscal Officer of the State, the Auditor of State, and the Treasurer of State in connection with general accounting, budgetary, and fiscal procedures.

SECTION 3449. The introductory language of Arkansas Code § 19–4–302, concerning budget information forms, is amended to read as follows:

<< AR ST § 19–4–302 >>

To accomplish his or her duties and responsibilities, the ~~Director~~ **Secretary** of the Department of Finance and Administration, in cooperation with the Legislative Council, shall design budget information forms so that comparative data of the last fiscal year, the current fiscal year, and the next biennium are presented so that state agencies can best express budgetary and program information that will be most useful to the Governor or Governor-elect and the General Assembly in order to facilitate program formulation, execution, and accountability by:

SECTION 3450. The introductory language of Arkansas Code § 19–4–303, concerning budget estimates by the Director of the Department of Finance and Administration and the Legislative Council, is amended to read as follows:

<< AR ST § 19–4–303 >>

The ~~Director~~ **Secretary** of the Department of Finance and Administration, in cooperation with the Legislative Council, shall:

SECTION 3451. The introductory language of Arkansas Code § 19–4–304(a), concerning regular and fiscal session preparations, is amended to read as follows:

<< AR ST § 19–4–304 >>

(a) Immediately after July 1 of each even-numbered calendar year, or earlier if determined necessary, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall:

SECTION 3452. The introductory language of Arkansas Code § 19-4-304(b), concerning regular and fiscal session preparations, is amended to read as follows:

<< AR ST § 19-4-304 >>

(b) The ~~director~~ **secretary** shall submit the annual revenue forecast to the Legislative Council:

SECTION 3453. Arkansas Code § 19-4-521(2)(B), concerning the definition of personal services for employees under the state accounting and budgetary procedures, is amended to read as follows:

<< AR ST § 19-4-521 >>

(B) This subclassification may be used to pay part-time or temporary employees who are employed for more than one thousand five hundred (1,500) hours per fiscal year if specific authorization is provided by law and if such use is within standards established by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3454. Arkansas Code § 19-4-1405(e)(1)(A), concerning bidding procedures, is amended to read as follows:

<< AR ST § 19-4-1405 >>

(e)(1)(A) When it is obvious from examination of the bid document that it was the intent of a bidder to submit a responsive bid and because of a scrivener's error, the bid, if accepted, would create a serious financial loss to the bidder, the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** may relieve the bidder from responsibility under his or her bond and may reject the bid.

SECTION 3455. Arkansas Code § 19-4-1405(e)(3)(A), concerning bidding procedures, is amended to read as follows:

<< AR ST § 19-4-1405 >>

(3)(A) To receive relief under subdivision (e)(1) of this section, the bidder must serve written notice to the ~~director~~ **secretary** or to the chief executive officer or his or her designee of a public institution of higher education exempt from review and approval of the division any time after the bid opening, but no later than seventy-two (72) hours after receiving the intent to award, excluding Saturdays, Sundays, and holidays.

SECTION 3456. Arkansas Code § 19-4-1405(e)(4), concerning bidding procedures, is amended to read as follows:

<< AR ST § 19-4-1405 >>

(4) In the event the ~~director~~ **secretary** or the chief executive officer or his or her designee of a public institution of higher education exempt from review and approval of the division has relieved the bidder from responsibility under his or her bond, action on the remaining bids should be considered as though the withdrawn bid had not been received.

SECTION 3457. Arkansas Code § 19-4-1902 is amended to read as follows:

<< AR ST § 19-4-1902 >>

19-4-1902. Preliminary or informal proposals.

Preliminary or informal proposals which do not commit personnel, space, facilities, or state funds may be submitted directly to the granting source. However, when the grant requested, if approved, would result in the commitment of state personnel, space, facilities, equipment, or funds, or the program to be proposed by the state agency with the resources from the federal grant has not received specific legislative authorization through an appropriation or specific enabling legislation, the requesting agency shall notify, in writing, the ~~Director~~ **Secretary** of the Department of Finance and Administration that such preliminary or informal proposal is being made and shall briefly describe it.

SECTION 3458. Arkansas Code § 19–4–1904(a), concerning the receipt of federal funds, is amended to read as follows:

<< AR ST § 19–4–1904 >>

(a) When any federal funds, grants, aids, or reimbursements, including unsolicited funds, are received by a state agency, the Department of Finance and Administration shall be notified on forms to be prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3459. Arkansas Code § 19–4–1907(a), concerning quarterly reports to be filed with the Legislative Council by the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 19–4–1907 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall file quarterly reports with the Legislative Council itemizing and summarizing all contracts or agreements entered into by the Governor with the federal government, or any agencies or instrumentalities thereof, whereby the State of Arkansas is to participate in any program involving the expenditure of federal funds. These reports shall be filed, whether or not state funds are obligated in connection therewith, with respect to new federal programs or expansions of existing federal programs which were not in existence or which were not implemented by state participation, at the time of the adjournment of the regular session of the General Assembly and entered into prior to the convening of the next regular session of the General Assembly.

SECTION 3460. Arkansas Code § 19–4–1908(a), concerning the review and continuance of programs by the Legislative Council, is amended to read as follows:

<< AR ST § 19–4–1908 >>

(a) The Legislative Council shall review the quarterly reports filed by the ~~Director~~ **Secretary** of the Department of Finance and Administration as required in this subchapter. The Legislative Council shall submit such findings and recommendations to each succeeding regular session of the General Assembly for enabling legislation to implement, restrict, or prohibit the state's participation in any such new federal program or expanded federal program which was implemented by contract or agreement entered into by the Governor subsequent to the adjournment of the preceding session of the General Assembly.

SECTION 3461. Arkansas Code § 19–5–1136(a), concerning the Animal Rescue and Shelter Trust Fund, is amended to read as follows:

<< AR ST § 19–5–1136 >>

(a) As used in this section, “registered governmentally owned animal rescue shelter” means an animal rescue or shelter owned by a county or municipality that has submitted notice to the Department of Finance and Administration as required under subsection (f) of this section and is on the official list of registered governmentally owned animal rescue

shelters prepared by the ~~Director~~ **Secretary** of the Department of Finance and Administration under subsection (f) of this section.

SECTION 3462. Arkansas Code § 19-5-1136(f)(1)(A), concerning the Animal Rescue and Shelter Trust Fund, is amended to read as follows:

<< AR ST § 19-5-1136 >>

(f)(1)(A) On or before October 1, 2009, a county or municipality that owns one (1) or more animal rescues or animal shelters on the date that notification is mailed shall notify the ~~director~~ **secretary** in writing to qualify for funding under this section.

SECTION 3463. Arkansas Code § 19-5-1136(f)(2)(A), concerning the Animal Rescue and Shelter Trust Fund, is amended to read as follows:

<< AR ST § 19-5-1136 >>

(2)(A) On or before October 15, 2009, the ~~director~~ **secretary** shall provide the Treasurer of State with a list of each county and municipality that has registered as owning an animal rescue shelter.

SECTION 3464. Arkansas Code § 19-6-459(1), concerning the Commercial Driver License Fund, is amended to read as follows:

<< AR ST § 19-6-459 >>

(1) Section 19-6-301(148), to be used to establish and maintain the Arkansas Commercial Driver License Program and for other related purposes as required by the ~~Director~~ **Secretary** of the Department of Finance and Administration in carrying out the functions, powers, and duties of the Revenue Division of the Department of Finance and Administration, as set out in the Arkansas Uniform Commercial Driver License Act, § 27-23-101 et seq.; and

SECTION 3465. Arkansas Code § 19-7-604(a)(2), concerning federal grants, aids, and reimbursement procedures, is amended to read as follows:

<< AR ST § 19-7-604 >>

(2) Applications shall include, in a manner prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration, a summary of the proposed project.

SECTION 3466. Arkansas Code § 19-7-604(b)(2), concerning federal grants, aids, and reimbursement procedures, is amended to read as follows:

<< AR ST § 19-7-604 >>

(2) In order to eliminate overlap, inefficiency, or a violation of legislative intent, the ~~director~~ **secretary** may require a review of the proposal, soliciting comment from other agencies which might be affected, and may require the suspension of negotiations until the review is completed.

SECTION 3467. Arkansas Code § 19–7–604(d)(1), concerning federal grants, aids, and reimbursement procedures, is amended to read as follows:

<< AR ST § 19–7–604 >>

(1) When any state agency receives notification of an award of any federal funds, grants, aids, or reimbursements, including unsolicited funds, the department shall be notified on forms to be prescribed by the ~~director~~ **secretary**.

SECTION 3468. Arkansas Code § 19–7–610 is amended to read as follows:

<< AR ST § 19–7–610 >>

19–7–610. Advice of legislative departments.

It is recognized by the legislative and executive departments of government that some of the executive departments' authority or responsibility as provided in this subchapter should possibly have the legislative departments' concurrence before proceeding with such authority or responsibility. The legislative department, via the Legislative Joint Auditing Committee, the Legislative Council, joint interim committees, interim committees, or subcommittees of the foregoing may request the ~~Director~~ **Secretary** of the Department of Finance and Administration to seek the legislative department's advice before exercising certain authority or responsibility as authorized by this subchapter.

SECTION 3469. Arkansas Code § 19–7–101(a), concerning reports to the Legislative Council, is amended to read as follows:

<< AR ST § 19–7–101 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall file quarterly reports with the Legislative Council itemizing and summarizing all contracts or agreements entered into by the Governor with the federal government, or any agencies or instrumentalities thereof, whereby the State of Arkansas is to participate in any program involving the expenditure of federal funds, whether or not state funds are obligated in connection therewith, with respect to new federal programs, or expansion of existing federal programs which were not in existence or which were not implemented by state participation, at the time of the adjournment of the regular session of the General Assembly and entered into prior to the convening of the next regular session of the General Assembly.

SECTION 3470. Arkansas Code § 19–7–102(a), concerning legislative review of federal programs, is amended to read as follows:

<< AR ST § 19–7–102 >>

(a) The Legislative Council shall review the quarterly reports filed by the ~~Director~~ **Secretary** of the Department of Finance and Administration as required in § 19–7–101 and shall submit its findings and recommendations to each succeeding regular session of the General Assembly for enabling legislation to implement, restrict, or prohibit the state's participation in any such new federal program or expanded federal program which was implemented by contract or agreement entered into by the Governor subsequent to the adjournment of the preceding session of the General Assembly.

SECTION 3471. Arkansas Code § 19–10–101 is amended to read as follows:

<< AR ST § 19-10-101 >>

19-10-101. Investigatory powers.

The ~~Director~~ **Secretary** of the Department of Finance and Administration, as soon as the ~~director~~ **secretary** learns of facts from which he or she concludes that a claim, other than for personal injury or death of a state employee, may be filed under this chapter against the state or any of its agencies, departments, or institutions, whether or not the claim has already been filed, is authorized and directed to investigate and take evidence concerning the claim. The ~~director~~ **secretary** is, for this purpose, authorized to exercise all necessary investigatory powers conferred upon him or her by this chapter. All information acquired by the ~~director~~ **secretary** shall be made available to the Arkansas State Claims Commission prior to the hearing and determination thereof.

SECTION 3472. Arkansas Code § 19-10-406 is amended to read as follows:

<< AR ST § 19-10-406 >>

19-10-406. Report of findings.

Upon the allowance or disallowance of any claim, the Workers' Compensation Commission shall immediately transmit a copy of its findings to the ~~Director~~ **Secretary** of the Department of Finance and Administration and interested parties.

SECTION 3473. Arkansas Code § 19-11-271 is amended to read as follows:

<< AR ST § 19-11-271 >>

19-11-271. Compliance reporting.

(a) Each report required under this subchapter shall be copied to the ~~Director~~ **Secretary** of the Department of Finance and Administration, who shall review each report for compliance with the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-601 et seq.

(b) If the ~~director~~ **secretary** determines that a state agency, agency procurement official, or state official or employee may be in violation of the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-601 et seq., the ~~director~~ **secretary** shall notify the chief executive officer of the relevant state agency.

SECTION 3474. Arkansas Code § 19-11-705(b) and (c), concerning an employee's conflict of interest, are amended to read as follows:

<< AR ST § 19-11-705 >>

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

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

SECTION 3475. Arkansas Code § 19–11–706 is amended to read as follows:

<< AR ST § 19–11–706 >>

19–11–706. Employee disclosure requirements.

(a) Disclosure of Benefit Received from Contract. Any employee who has or obtains any benefit from any state contract with a business in which the employee has a financial interest shall report such benefit to the ~~Director~~ **Secretary** of the Department of Finance and Administration. However, this section shall not apply to a contract with a business where the employee's interest in the business has been placed in a disclosed blind trust.

(b) Failure to Disclose Benefit Received. Any employee who knows or should have known of such benefit and fails to report the benefit to the ~~director~~ **secretary** is in breach of the ethical standards of this section.

SECTION 3476. The introductory language of Arkansas Code § 19–11–712(b), concerning the civil and administrative remedies against employees who breach ethical standards, is amended to read as follows:

<< AR ST § 19–11–712 >>

(b) Supplemental Remedies. In addition to existing remedies for breach of the ethical standards of this subchapter, or regulations promulgated under this subchapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration may impose any one (1) or more of the following:

SECTION 3477. The introductory language of Arkansas Code § 19–11–713(b), concerning the civil and administrative remedies against nonemployees who breach ethical standards, is amended to read as follows:

<< AR ST § 19–11–713 >>

(b) Supplemental Remedies. In addition to the existing remedies for breach of the ethical standards of this subchapter, or regulations promulgated under this subchapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration may impose any one (1) or more of the following:

SECTION 3478. Arkansas Code § 19–11–715 is amended to read as follows:

<< AR ST § 19–11–715 >>

19–11–715. Duties of ~~Director~~ Secretary of the Department of Finance and Administration.

(a) Regulations. The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate regulations to implement this subchapter and shall do so in accordance with this subchapter and the applicable provisions of the Arkansas Administrative Procedure Act, § 25–15–201 et seq.

(b) Advisory Opinions. On written request of employees or contractors and in consultation with the Attorney General, the ~~director~~ **secretary** may render written advisory opinions regarding the appropriateness of the course of conduct to be followed in proposed transactions. Such requests and advisory opinions may be duly published in the manner in which regulations of this state are published. Compliance with the requirements of a duly promulgated advisory opinion of the ~~director~~ **secretary** shall be deemed to constitute compliance with the ethical standards of this subchapter.

(c) Waiver. On written request of an employee, the ~~director~~ **secretary** may grant an employee a written waiver from the application of § 19–11–705, which refers to employee conflict of interest, and grant permission to proceed with the

transaction to such extent and upon such terms and conditions as may be specified. Such waiver and permission may be granted when the interests of the state so require or when the ethical conflict is insubstantial or remote.

SECTION 3479. Arkansas Code § 19–11–716(b)(1), concerning participation in business incubators, regulations, and guidelines, is amended to read as follows:

<< AR ST § 19–11–716 >>

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

SECTION 3480. Arkansas Code § 19–11–1014 is amended to read as follows:

<< AR ST § 19–11–1014 >>

19–11–1014. Compliance reporting.

(a) Each report required under this subchapter shall be copied to the ~~Director~~ **Secretary** of the Department of Finance and Administration, who shall review each report for compliance with the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19–1–601 et seq.

(b) If the ~~director~~ **secretary** determines that a state agency, agency procurement official, or state official or employee may be in violation of the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19–1–601 et seq., the ~~director~~ **secretary** shall notify the chief executive officer of the relevant state agency.

SECTION 3481. Arkansas Code § 20–9–305(a)(1), concerning annual reports by nonprofit hospitals, is amended to read as follows:

<< AR ST § 20–9–305 >>

(a)(1) Any nonprofit hospital association or corporation organized under the laws of this state that operates and maintains a hospital facility in this state primarily for providing hospital services for the employees of any corporation or company engaged in interstate commerce shall file annually with the ~~Director~~ **Secretary** of the Department of Finance and Administration a detailed report of income, fees, charges, and contributions from all sources received by it during the year, together with the expenses and disbursements of the corporation or association during the year.

SECTION 3482. Arkansas Code § 20–17–502(c), concerning the Organ Donor Awareness Education Trust Fund, is amended to read as follows:

<< AR ST § 20–17–502 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration may accept any gifts, grants, bequests, devises, and donations made to the State of Arkansas for the purposes of organ donor awareness education. Moneys received for the purposes stated in this section shall be deposited into the fund.

SECTION 3483. Arkansas Code § 20–17–502(e), concerning the Organ Donor Awareness Education Trust Fund, is amended to read as follows:

<< AR ST § 20–17–502 >>

(e) The ~~director~~ **secretary** shall grant funds available and appropriated from the fund to the Arkansas Regional Organ Recovery Agency, Inc. or its successor agency to be used for educational or informational materials and other related costs associated with informing or educating the public about organ donations and organ donation awareness.

SECTION 3484. Arkansas Code § 20–27–2105(c), concerning certification and product change regarding cigarettes, is amended to read as follows:

<< AR ST § 20–27–2105 >>

(c) The Director of Arkansas Tobacco Control shall make the certifications available to the Attorney General and the ~~Director~~ **Secretary** of the Department of Finance and Administration for purposes consistent with this subchapter.

SECTION 3485. The introductory language of Arkansas Code § 20–27–2107(f)(1), concerning penalties for selling cigarettes other than by a retail sale, is amended to read as follows:

<< AR ST § 20–27–2107 >>

(f)(1) An authorized representative of the ~~Director~~ **Secretary** of the Department of Finance and Administration or the Director of Arkansas Tobacco Control may seize and take possession of cigarettes:

SECTION 3486. Arkansas Code § 20–27–2108(b), concerning implementation of the Arkansas Cigarette Fire Safety Standard Act, is amended to read as follows:

<< AR ST § 20–27–2108 >>

(b)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration, the Director of Arkansas Tobacco Control, and their employees, in the regular course of conducting inspections of wholesalers and retailers, as authorized under the Arkansas Tobacco Products Tax Act of 1977, § 26–57–201 et seq., may inspect cigarettes to determine if the cigarettes are marked as required by § 20–27–2106.

(2) If the ~~Director~~ **Secretary** of the Department of Finance and Administration discovers cigarettes that are not marked as required, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall notify the Director of Arkansas Tobacco Control.

SECTION 3487. Arkansas Code § 20–27–2109 is amended to read as follows:

<< AR ST § 20–27–2109 >>

20–27–2109. Inspection.

(a) To enforce the provisions of this subchapter, the Attorney General, the ~~Director~~ **Secretary** of the Department of Finance and Administration, the Director of Arkansas Tobacco Control, and their authorized representatives may examine the books, papers, invoices, and other records of a person in possession, control, or occupancy of premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises.

(b) Every person in possession, control, or occupancy of premises where cigarettes are placed, stored, sold, or offered for sale shall give the Attorney General, the ~~Director~~ **Secretary** of the Department of Finance and Administration, the Director of Arkansas Tobacco Control, and their authorized representatives the means, facilities, and opportunity for the examinations authorized by this section.

SECTION 3488. Arkansas Code § 20-79-206(b), concerning the operation of rehabilitation facilities by Arkansas Rehabilitation Services, is amended to read as follows:

<< AR ST § 20-79-206 >>

(b) Gifts, grants, fees for services, income from the sale of products or items of manufacture or handwork, and donations may be deposited into one (1) or more banks and expended by the appropriate division of the Department of Human Services, in compliance with the rules and regulations of the ~~Director~~ **Secretary** of the Department of Finance and Administration, in the establishment and operation of rehabilitation facilities and such other program services as may be determined by the appropriate division of the Department of Human Services, which are consistent with the purposes of this subchapter.

SECTION 3489. Arkansas Code § 21-1-404(a), concerning the rules, regulations, and disclosure statements regarding the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 21-1-404 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to promulgate and implement any necessary rules, regulations, or policies to ensure compliance with this subchapter subject to the prior review and approval of the Joint Budget Committee during legislative sessions and the Legislative Council between legislative sessions.

SECTION 3490. Arkansas Code § 21-1-704(c)(2)(A)(ii), concerning nonbinding mediation, is amended to read as follows:

<< AR ST § 21-1-704 >>

(ii) The mediator shall report within ten (10) business days of the nonbinding mediation his or her suggested resolution to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3491. Arkansas Code § 21-2-705(a)(3) and (4), concerning the creation of the Governmental Bonding Board, are amended to read as follows:

<< AR ST § 21-2-705 >>

(3) The Commissioner of **Elementary and Secondary** Education;

(4) The ~~Director~~ **Secretary** of the Department of Finance and Administration; and

SECTION 3492. Arkansas Code § 21–2–705(b)(1), concerning the creation of the Governmental Bonding Board, is amended to read as follows:

<< AR ST § 21–2–705 >>

(b)(1) The members of the board shall receive no compensation for their services, but members other than the Commissioner of **Elementary and Secondary** Education, the ~~Director~~ **Secretary** of the Department of Finance and Administration, and the Insurance Commissioner may receive expense reimbursement in accordance with § 25–16–901 et seq.

SECTION 3493. Arkansas Code § 21–2–710(a)(1)(A), concerning billing certification, payment, and deposits regarding the Governmental Bonding Board, is amended to read as follows:

<< AR ST § 21–2–710 >>

(1)(A) Department of Finance and Administration. Upon receipt of this certification, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall pay it from funds specifically appropriated for it by the General Assembly or from other funds available therefor.

SECTION 3494. Arkansas Code § 21–3–802(d)(2), concerning the recruitment of retired employees, is amended to read as follows:

<< AR ST § 21–3–802 >>

(2) Upon receiving certification of the cost by the Executive Director of the Arkansas Public Employees' Retirement System, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall transfer the actuarial cost from the fund of the agency that employed the person under the program to the Arkansas Public Employees' Retirement System Fund.

SECTION 3495. The introductory language of Arkansas Code § 21–4–214(g), concerning the catastrophic leave program, is amended to read as follows:

<< AR ST § 21–4–214 >>

(g) The ~~Director~~ **Secretary** of the Department of Finance and Administration, or the ~~director's~~ **secretary's** designee, shall establish policies and procedures:

SECTION 3496. Arkansas Code § 21–5–402(a)(1)(D) and (E), concerning the creation and members of the State and Public School Life and Health Insurance Board, are amended to read as follows:

<< AR ST § 21–5–402 >>

(D) The Commissioner of **Elementary and Secondary** Education or his or her designee;

(E) The ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her designee;

SECTION 3497. The introductory language of Arkansas Code § 21–5–511(f), concerning the automatic enrollment in deferred compensation plans, is amended to read as follows:

<< AR ST § 21–5–511 >>

(f) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules to:

SECTION 3498. Arkansas Code § 21–11–105(a)(2), concerning the Suggestion Award Board, is amended to read as follows:

<< AR ST § 21–11–105 >>

(2) The membership of the board shall consist of the ~~Director~~ **Secretary** of the Department of Finance and Administration, the ~~Personnel Director~~ **State Personnel Administrator**, who shall serve as chair, and the cochairs of the Legislative Council.

SECTION 3499. Arkansas Code § 22–3–1902(a), concerning rules regarding the Sustainable Design Program for State Agencies, is amended to read as follows:

<< AR ST § 22–3–1902 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration **Transformation and Shared Services** shall promulgate rules for the implementation of the Sustainable Building Design Program for State Agencies.

SECTION 3500. Arkansas Code § 22–6–601(h)(2)(A)(i)(a), concerning the sale procedure of state lands, is amended to read as follows:

<< AR ST § 22–6–601 >>

(2)(A)(i)(a) Upon approval by the Governor, lands may be sold to the highest responsible bidder for less than the amount of the appraisal if the bid process has been utilized and it has been determined and recommended by the agency director and the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** that further solicitation of bids is unnecessary.

SECTION 3501. Arkansas Code § 22–6–601(k)(2), concerning the procedure for the sale of state lands, is amended to read as follows:

<< AR ST § 22–6–601 >>

(2) The ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** shall forward a recommendation to the Governor.

SECTION 3502. Arkansas Code § 22–8–101 is amended to read as follows:

<< AR ST § 22–8–101 >>

22–8–101. Registration of state-owned motor vehicles — Report.

(a)(1) In order that a complete inventory of all state-owned motor vehicles is maintained, every state agency, including the Arkansas Department of Transportation, the Arkansas State Game and Fish Commission, the ~~Department~~ **Division** of Arkansas State Police, the Arkansas National Guard, and all constitutional offices shall annually register each motor vehicle owned by the State of Arkansas with the ~~Director~~ **Secretary** of the Department of Finance and Administration in a manner prescribed by the ~~director~~ **secretary**.

(2) The registration shall include a description of each motor vehicle, including the year, make, model, license number, vehicle identification number, and other information which the ~~director~~ **secretary** might require.

(3) Whenever any state agency sells or disposes of a motor vehicle, a complete record thereof shall be furnished to the ~~director~~ **secretary** as authorization for the removal of the vehicle from the official state inventory.

(4) Whenever any state agency acquires a new or additional motor vehicle, the information required by this subsection to be placed in the state inventory shall be furnished to the ~~director~~ **secretary** within ten (10) days after the acquisition of the vehicle by the agency.

(5) The ~~director~~ **secretary** shall keep the inventory of motor vehicles owned by the State of Arkansas and its agencies current at all times, categorized in accordance with the motor vehicles owned by each of the respective state agencies.

(b)(1) The ~~director~~ **secretary** shall make an annual report to the Legislative Council as to the number of motor vehicles owned by the State of Arkansas.

(2) The report shall include a comparison of the current inventory of motor vehicles with an inventory of the preceding year.

SECTION 3503. Arkansas Code § 22-8-205(c) and (d), concerning the allocation of vehicles and priority listing, are amended to read as follows:

<< AR ST § 22-8-205 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration, through the Marketing and Redistribution Section, shall have the authority to reassign a vehicle from a state agency to another state agency based upon need, age, condition, utilization, and justification but not to decrease a state agency's actual number of vehicles owned.

(d) The ~~director~~ **secretary** shall review the schedule of prioritized ranking for acquiring vehicles, and he or she shall have the authority to make changes, as he or she deems necessary, to the priority listing. He or she shall then forward the priority listing to the Governor for his or her approval or modification.

SECTION 3504. Arkansas Code § 22-8-206(a), concerning the purchase of automobiles by the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 22-8-206 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall purchase vehicles for state agencies from moneys as appropriated and made available by the General Assembly.

SECTION 3505. Arkansas Code § 22-8-207 is amended to read as follows:

<< AR ST § 22–8–207 >>

22–8–207. Purchase from qualified vendors.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the authority to purchase new or used vehicles from qualified vendors in accordance with the Arkansas Procurement Law, § 19–11–201 et seq.

SECTION 3506. Arkansas Code § 22–8–209 is amended to read as follows:

<< AR ST § 22–8–209 >>

22–8–209. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration, through his or her disbursing officer, is authorized to promulgate such rules and regulations as deemed necessary to implement the provisions and intent of this subchapter.

SECTION 3507. Arkansas Code § 23–13–307(a), concerning the revocation of a license, permit, or certificate, is amended to read as follows:

<< AR ST § 23–13–307 >>

(a) In the event the Arkansas Department of Transportation finds that the defendant is guilty upon any complaint filed and proceeding had, and that the provisions of § 23–13–102 or the rules, regulations, or orders of the Arkansas Department of Transportation have been willfully and knowingly violated and that a motor vehicle was used in the violation, the Arkansas Department of Transportation shall forthwith deliver a certified copy of its findings and order to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3508. Arkansas Code § 23–13–603(a), concerning the implementation and administration of the duties regarding the Unified Carrier Registration Act of 2005, is amended to read as follows:

<< AR ST § 23–13–603 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration has oversight over the implementation and administration of the Unified Carrier Registration Act of 2005, Pub. L. No. 109–59, § 4301 et seq.

SECTION 3509. The introductory language of Arkansas Code § 23–13–603(b), concerning the implementation and administration of the duties regarding the Unified Carrier Registration Act, is amended to read as follows:

<< AR ST § 23–13–603 >>

(b) The ~~director~~ **secretary** is vested with the following powers and has the following duties:

SECTION 3510. Arkansas Code § 23–13–604(a), concerning registration fees to be collected by the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 23–13–604 >>

(a) Any fees collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration under this section shall be classified as special revenues and shall be deposited into the State Treasury.

SECTION 3511. The introductory language of Arkansas Code § 23-13-604(c), concerning registration fees to be collected by the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 23-13-604 >>

(c) The net amount of the fees collected by the ~~director~~ **secretary** under this section shall be:

SECTION 3512. Arkansas Code § 23-17-413 is amended to read as follows:

<< AR ST § 23-17-413 >>

23-17-413. Optional provision of database to vendors.

In order to assign the place of primary use for mobile telecommunications services pursuant to the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, the ~~Director~~ **Secretary** of the Department of Finance and Administration may choose whether to furnish vendors with a database that matches addresses with taxing jurisdictions or to allow vendors to employ an enhanced zip code of at least nine (9) digits in lieu of providing a database.

SECTION 3513. Arkansas Code § 23-110-105(a), concerning racing passes, is amended to read as follows:

<< AR ST § 23-110-105 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall set a maximum number of racing passes to be printed and issued annually, and it shall not be less than the number printed in 1990.

SECTION 3514. Arkansas Code § 23-110-202 is amended to read as follows:

<< AR ST § 23-110-202 >>

23-110-202. Officers.

(a) The Governor shall from time to time select from the membership of the Arkansas Racing Commission a chair and a vice chair.

(b)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall be ex officio ~~secretary~~ **director** of the commission unless the Governor shall designate another person from the Revenue Division of the Department of Finance and Administration to serve in that capacity, but the ~~Secretary~~ **Director** of the Arkansas Racing Commission shall not be a member of the commission nor shall he or she have a vote on matters coming before it.

(2) The ~~secretary~~ **director** shall be the commission's executive officer and shall administer the provisions of this chapter and the rules, regulations, and orders established under this chapter.

(3) By resolution duly adopted, the commission may delegate to the ~~secretary~~ **director** any of the powers or duties vested in or imposed upon the commission by this chapter, and the delegated powers and duties may be exercised by the ~~secretary~~ **director** in the name of the commission.

(4) The ~~secretary~~ **director** shall be custodian of all property held in the name of the commission and shall be the ex officio disbursing agent of all funds available for its use.

(5) The ~~secretary~~ **director** shall furnish bond to the state, with a corporate surety thereon, in the penal sum of twenty-five thousand dollars (\$25,000), conditioned that he or she will faithfully perform his or her duties of office and properly account for all funds received and disbursed by him or her as ~~secretary~~ **director**.

(6) Within such limitations as may be provided by appropriations therefor, the ~~secretary~~ **director** may employ such assistants and other personnel as are, in his or her opinion, necessary to properly administer the provisions of this chapter.

SECTION 3515. Arkansas Code § 23–111–105(a), concerning racing passes, is amended to read as follows:

<< AR ST § 23–111–105 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall set a maximum number of racing passes to be printed and issued annually, and it shall not be fewer than the number printed in 1990.

SECTION 3516. Arkansas Code § 23–111–509(c)(2)(C)(i), concerning the disposition of wagering money, is amended to read as follows:

<< AR ST § 23–111–509 >>

(C)(i) The commission shall seek the assistance of the Department of Finance and Administration to audit and verify receipts and expenditures of the franchise holder in determining compliance with this section. The franchise holder must deliver to the department any documents requested to check and verify compliance with this section within thirty (30) days of receiving a written request for the documents. If the department does not receive the requested documents within the time provided, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall notify the commission, which shall issue an order to show cause why such documents have not been provided.

SECTION 3517. Arkansas Code § 23–113–103(4), concerning the definition of “director” under the Local Option Horse Racing and Greyhound Racing Electronic Games of Skill Act, is repealed.

<< AR ST § 23–113–103 >>

(4) “Director” means the ~~Director of the Department of Finance and Administration~~;

SECTION 3518. Arkansas Code § 23–113–501(a)(1), concerning privilege fees to be paid to the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 23–113–501 >>

(1) An amount equal to eighteen percent (18%) of the net wagering revenues from electronic games of skill shall be paid by the franchise holder to the ~~Director~~ **Secretary** of the Department of Finance and Administration for disposition under § 23–113–604;

SECTION 3519. Arkansas Code § 23–113–604(a), concerning the disposition of privilege fees and license fees, etc., is amended to read as follows:

<< AR ST § 23-113-604 >>

(a) All privilege fees received by the ~~Director~~ **Secretary** of the Department of Finance and Administration under this chapter for the benefit of the state shall be deposited into the State Treasury as general revenues.

SECTION 3520. Arkansas Code § 23-114-102(7), concerning the definition of “director” under the Charitable Bingo and Raffles Enabling Act, is repealed.

<< AR ST § 23-114-102 >>

(7) “~~Director~~” means the ~~Director~~ of the ~~Department of Finance and Administration~~;

SECTION 3521. Arkansas Code § 23-114-201 is amended to read as follows:

<< AR ST § 23-114-201 >>

23-114-201. Control and supervision of games of bingo and raffles.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall administer this chapter under the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(b) The ~~director~~ **secretary** has authority over all games of bingo and raffles conducted in this state so that games of bingo and raffles are fairly conducted and the proceeds derived from games of bingo and raffles are used only for an authorized purpose.

SECTION 3522. Arkansas Code § 23-114-202(a), concerning the approval of bingo faces and raffle tickets, is amended to read as follows:

<< AR ST § 23-114-202 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration by rule shall provide for the form of bingo faces and raffle tickets used in the State of Arkansas.

SECTION 3523. Arkansas Code § 23-114-203 is amended to read as follows:

<< AR ST § 23-114-203 >>

23-114-203. Rulemaking authority.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may adopt rules to aid in the enforcement and administration of this chapter.

SECTION 3524. Arkansas Code § 23-114-303(c)(2), concerning a license application and authorized organizations, is amended to read as follows:

<< AR ST § 23-114-303 >>

(2)(A) In order to determine a responsible person's suitability to organize, conduct, and administer raffles and bingo sessions, the ~~Director~~ **Secretary** of the Department of Finance and Administration may require that the responsible

person be fingerprinted and the fingerprints forwarded for a criminal background check through the ~~Department~~ **Division** of Arkansas State Police.

(B) After the completion of the criminal background check through the ~~Department~~ **Division** of Arkansas State Police, the fingerprints shall be forwarded by the ~~Department~~ **Division** of Arkansas State Police to the Federal Bureau of Investigation for a national criminal history record check; and

SECTION 3525. The introductory language of Arkansas Code § 23-114-303(c)(3), concerning a license application and authorized organizations, is amended to read as follows:

<< AR ST § 23-114-303 >>

(3) The responsible person shall sign a release that allows the ~~Department~~ **Division** of Arkansas State Police to release:

SECTION 3526. Arkansas Code § 23-114-304(c)(2), concerning distributors' and manufacturers' license applications, is amended to read as follows:

<< AR ST § 23-114-304 >>

(2)(A) In order to determine the person's or persons' suitability to be involved in the sale of bingo equipment, the ~~Director~~ **Secretary** of the Department of Finance and Administration may require that the person or persons be fingerprinted and the fingerprints forwarded for a criminal background check through the ~~Department~~ **Division** of Arkansas State Police.

(B) After the completion of the criminal background check through the ~~Department~~ **Division** of Arkansas State Police, the fingerprints shall be forwarded by the ~~Department~~ **Division** of Arkansas State Police to the Federal Bureau of Investigation for a national criminal history record check; and

SECTION 3527. The introductory language of Arkansas Code § 23-114-304(c)(3), concerning distributors' and manufacturers' license applications, is amended to read as follows:

<< AR ST § 23-114-304 >>

(3) The person or persons responsible for an applicant's sales of bingo equipment shall sign a release that allows the ~~Department~~ **Division** of Arkansas State Police to release the following:

SECTION 3528. Arkansas Code § 23-114-405(a)(1), concerning raffle and bingo records, is amended to read as follows:

<< AR ST § 23-114-405 >>

(a)(1) A licensed authorized organization shall provide to the ~~Director~~ **Secretary** of the Department of Finance and Administration at the time of application for license the address of its primary business office.

SECTION 3529. Arkansas Code § 23-114-602(b) and (c), concerning the payment and reporting of taxes, are amended to read as follows:

<< AR ST § 23-114-602 >>

(b) The report shall be filed under oath on forms prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(c) The ~~director~~ **secretary** shall adopt any rules necessary for the proper reporting and payment of the tax.

SECTION 3530. Arkansas Code § 23-114-603(a)(2), concerning information required on excise tax reports, is amended to read as follows:

<< AR ST § 23-114-603 >>

(2) Any other information that the ~~Director~~ **Secretary** of the Department of Finance and Administration determines is necessary to properly administer the excise tax levied by this subchapter.

SECTION 3531. Arkansas Code § 23-114-704(a), concerning the filing of injunctions by the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 23-114-704 >>

(a) If the Department of Finance and Administration has reason to believe that this chapter has been violated, the ~~Director~~ **Secretary** of the Department of Finance and Administration may petition a court for injunctive relief to restrain the violation.

SECTION 3532. Arkansas Code § 23-115-204(d)(1), concerning the Lottery Retailer Advisory Board, is amended to read as follows:

<< AR ST § 23-115-204 >>

(1) A member of the immediate family of the ~~Director~~ **Secretary** of the Department of Finance and Administration;

SECTION 3533. Arkansas Code § 23-115-206(a)(8)(D)(ix)(a) and (b), concerning internal controls and an annual audit regarding the Office of the Arkansas Lottery, are amended to read as follows:

<< AR ST § 23-115-206 >>

(a) Demographic reports from the ~~Department~~ **Division** of Higher Education for each full semester during the fiscal year on accessibility to scholarships, award amounts for each approved institution of higher education; and

(b) The ~~Department~~ **Division** of Higher Education's report to the Legislative Council required by § 6-85-219;

SECTION 3534. Arkansas Code § 23–115–206(b)(3), concerning internal controls and annual audits, is amended to read as follows:

<< AR ST § 23–115–206 >>

(3)(A) If the office, the General Assembly, the Legislative Council, or the Legislative Joint Auditing Committee requests additional audits or performance reviews of the fiscal affairs or operations of the office to be conducted by a private certified public accountant or other consultant, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall select and contract with appropriate certified public accountants or consultants to provide the services.

(B) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall contract for the services which shall be paid directly to the contractor by the office.

(C) A copy of any report or management correspondence prepared by the certified public accountants or consultants shall be forwarded to Arkansas Legislative Audit, the ~~Director~~ **Secretary** of the Department of Finance and Administration, and the Legislative Council.

SECTION 3535. Arkansas Code § 23–115–212(a), concerning the duties and responsibilities of an internal auditor, is amended to read as follows:

<< AR ST § 23–115–212 >>

(a) The internal auditor employed by the Office of the Arkansas Lottery shall report directly to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3536. The introductory language of Arkansas Code § 23–115–212(b), concerning the duties and responsibilities of an internal auditor, is amended to read as follows:

<< AR ST § 23–115–212 >>

(b) The ~~director~~ **secretary** shall determine the duties and responsibilities of the internal auditor that:

SECTION 3537. Arkansas Code § 23–115–212(b)(2)(A), concerning the duties and responsibilities of an internal auditor, is amended to read as follows:

<< AR ST § 23–115–212 >>

(A) Preparing a formal written three-year audit plan and presenting it to the ~~director~~ **secretary** for the ~~director's~~ **secretary's** approval;

SECTION 3538. Arkansas Code § 23–115–212(b)(2)(C), concerning the duties and responsibilities of an internal auditor, is amended to read as follows:

<< AR ST § 23–115–212 >>

(C) Advising the ~~director~~ **secretary** of inconsistencies within or improvements needed to the internal controls, operating procedures, or accounting procedures of the office or the lotteries.

SECTION 3539. Arkansas Code § 23–115–212(c)(1)(A), concerning the duties and responsibilities of an internal auditor, is amended to read as follows:

<< AR ST § 23–115–212 >>

(A) Advise the Legislative Council concerning current issues and problems reported to the ~~director~~ **secretary** under subsection (b) of this section; and

SECTION 3540. Arkansas Code § 23–115–501(e)(1)(A) and (B), concerning vendors, requirements when submitting a bid, proposals, offers, and major procurement contracts, are amended to read as follows:

<< AR ST § 23–115–501 >>

(A) The Director of the Office of the Arkansas Lottery, an employee of the Office of the Arkansas Lottery, the ~~Director~~ **Secretary** of the Department of Finance and Administration, the Deputy Director of the Department of Finance and Administration, or a member of the Legislative Council; or

(B) A member of the immediate family of the Director of the Office of the Arkansas Lottery, an employee of the office, the ~~Director~~ **Secretary** of the Department of Finance and Administration, the Deputy Director of the Department of Finance and Administration, or a member of the Legislative Council.

SECTION 3541. Arkansas Code § 23–115–501(f), concerning vendors, requirements when submitting a bid, proposals, offers, and major procurement contracts, is amended to read as follows:

<< AR ST § 23–115–501 >>

(f)(1) A public official, the ~~Director~~ **Secretary** of the Department of Finance and Administration, and the Deputy Director of the Department of Finance and Administration shall not knowingly own a financial interest in a vendor.

(2)(A) If a public official, the ~~Director~~ **Secretary** of the Department of Finance and Administration, or the Deputy Director of the Department of Finance and Administration becomes aware that he or she owns a financial interest in a vendor, the public official, the ~~Director~~ **Secretary** of the Department of Finance and Administration, or the Deputy Director of the Department of Finance and Administration shall divest the financial interest as soon as possible.

(B) A public official, the ~~Director~~ **Secretary** of the Department of Finance and Administration, or the Deputy Director of the Department of Finance and Administration shall not divest the financial interest to a member of his or her immediate family.

SECTION 3542. Arkansas Code § 23–115–601(e)(1), concerning retailers, is amended to read as follows:

<< AR ST § 23–115–601 >>

(e)(1) A person seeking to be a retailer shall apply to the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police for a state and federal criminal background check, to be conducted by the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police and the Federal Bureau of Investigation.

SECTION 3543. Arkansas Code § 23-115-601(e)(5), concerning retailers, is amended to read as follows:

<< AR ST § 23-115-601 >>

(5) Upon completion of the state and federal criminal background check, the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police shall forward to the office all releasable information obtained concerning the applicant.

SECTION 3544. Arkansas Code § 23-115-601(j)(1)(A) and (B), concerning retailers, are amended to read as follows:

<< AR ST § 23-115-601 >>

(A) The Director of the Office of the Arkansas Lottery, an employee of the Office of the Arkansas Lottery, the ~~Director~~ **Secretary** of the Department of Finance and Administration, or the Deputy Director of the Department of Finance and Administration; or

(B) A member of the immediate family of the Director of the Office of the Arkansas Lottery, an employee of the Office of the Arkansas Lottery, the ~~Director~~ **Secretary** of the Department of Finance and Administration, or the Deputy Director of the Department of Finance and Administration.

SECTION 3545. Arkansas Code § 23-115-610(c), concerning business closure procedures, is amended to read as follows:

<< AR ST § 23-115-610 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration may request the assistance of the ~~Department~~ **Division** of Arkansas State Police or any state or local law enforcement official to post the notice or to secure the business as authorized in this section.

SECTION 3546. Arkansas Code § 23-115-801(b)(1)(B)(i)(b)(1), concerning lottery proceeds, is amended to read as follows:

<< AR ST § 23-115-801 >>

(1) Transfers under subdivision (c)(2) of this section the funds requested by the ~~Department~~ **Division** of Higher Education; and

SECTION 3547. Arkansas Code § 23-115-801(b)(1)(B)(iii), concerning lottery proceeds, is amended to read as follows:

<< AR ST § 23-115-801 >>

(iii) Annually, the office shall transfer to the ~~Department~~ **Division** of Higher Education the funds from the previous academic year, if any, that were transferred by the office into the trust account for the Arkansas Workforce Challenge Scholarship Program, § 6-85-301 et seq., under subdivision (b)(1)(B)(i) of this section for distribution of Arkansas Workforce Challenge Scholarships.

SECTION 3548. Arkansas Code § 23-115-801(c) and (d), concerning lottery proceeds, are amended to read as follows:

<< AR ST § 23-115-801 >>

(c)(1) The Director of the ~~Department~~ **Division** of Higher Education shall certify to the office the amount of net proceeds from the lottery needed to fund the scholarships awarded to recipients under § 6-85-201 et seq. for each semester of an academic year.

(2)(A) The office shall transfer the funds requested by the 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 financial institutions meeting the requirements of subdivision (b)(2) of this section maintained by the ~~Department~~ **Division** of Higher Education.

(B) The Director of the ~~Department~~ **Division** of Higher Education shall disburse trust account funds only in the name of the recipient:

(i) To an approved institution of higher education; or

(ii) If a recipient transfers to another approved institution of higher education, to the approved institution of higher education where the recipient transferred.

(3) By August 1 of each year, the Director of the ~~Department~~ **Division** of Higher Education shall provide to the ~~Director~~ **Secretary** of the Department of Finance and Administration and to the Legislative Council for the academic year just ended an accounting of all trust accounts maintained by the ~~Department~~ **Division** of Higher Education, including without limitation:

(A) Total deposits to all trust accounts;

(B) Total disbursements from the trust accounts; and

(C) The balance remaining in the trust accounts.

(d)(1) The General Assembly finds that:

(A) The administration of scholarships with proceeds from the lottery are expenses of the office; and

(B) Because the ~~Department~~ **Division** of Higher Education has the expertise and experienced staff needed to efficiently and appropriately administer the scholarships, the office shall use the services of the ~~Department~~ **Division** of Higher Education to administer scholarships funded with net proceeds from the lottery.

(2)(A) Annually by April 1, the ~~Department~~ **Division** of Higher Education shall provide to the office and to the Legislative Council the ~~Department~~ **Division** of Higher Education's budget for the administrative expenditures allowed under this subsection.

(B) Annually by October 31, the ~~Department~~ **Division** of Higher Education shall provide an invoice to the office for reimbursement of the administrative expenditures allowed under this subsection, including without limitation:

(i) For each employee the:

(a) Type of position, whether full-time, part-time, permanent, or temporary; and

(b) Salary paid;

(ii) A description of other expenditures requested in the invoice; and

(iii) An explanation of the increase, if any, of actual expenditures over the budgeted expenditures.

(C) Only direct expenditures of the ~~department~~ **division** to administer scholarship funding with net proceeds from the lottery may be invoiced to the office under subdivision (d)(2)(B) of this section.

(3)(A) Annually by November 1, the office shall file a copy of the invoice with the Legislative Council for its review.

(B) The Legislative Council shall review the invoice and forward its comments, if any, to the office.

(C) The office shall reimburse the ~~Department~~ **Division** of Higher Education for the costs of administering the scholarship awards funded with net proceeds from the lottery after the Legislative Council's review under this subsection.

SECTION 3549. Arkansas Code § 23–116–104(b)(1), concerning tax on paid fantasy sports games, is amended to read as follows:

<< AR ST § 23–116–104 >>

(1) Reported and remitted to the Department of Finance and Administration on a quarterly basis through the Arkansas Taxpayer Access Point or its successor on forms prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration; and

SECTION 3550. Arkansas Code § 23–116–104(c), concerning tax on paid fantasy sports games, is amended to read as follows:

<< AR ST § 23–116–104 >>

(c) The ~~director~~ **secretary** shall promulgate rules to administer the tax levied under this section.

SECTION 3551. Arkansas Code § 24–4–201(a)(1), concerning the creation and system accounts of the Arkansas Public Employees' Retirement System Fund, is amended to read as follows:

<< AR ST § 24–4–201 >>

(a)(1) There is established on the books of the Treasurer of State, the Auditor of State, and the ~~Director~~ **Secretary** of the Department of Finance and Administration a fund to be known as the “Arkansas Public Employees' Retirement System Fund”.

SECTION 3552. Arkansas Code § 24–4–207(a)(3), concerning bonds, payments on vouchers and warrants, and adjustment of erroneous payments, is amended to read as follows:

<< AR ST § 24–4–207 >>

(3) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized and directed to designate such additional personnel within his or her office and to provide for such services as are necessary for the proper operation of the system.

SECTION 3553. Arkansas Code § 24–4–207(c)(4)(C), concerning bonds, payments on vouchers and warrants, and adjustment of erroneous payments, is amended to read as follows:

<< AR ST § 24–4–207 >>

(C) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promptly hear all appeals of annuity determinations or redeterminations and shall conduct such hearings in accordance with procedures set forth by the board.

SECTION 3554. Arkansas Code § 24–5–104(b)(1)(C), concerning the Board of Trustees of the Arkansas State Highway Employees' Retirement System, is amended to read as follows:

<< AR ST § 24–5–104 >>

(C) The ~~Director~~ **Secretary** of the Department of Finance and Administration;

SECTION 3555. Arkansas Code § 24–6–209(a), concerning an employer's contribution, is amended to read as follows:

<< AR ST § 24–6–209 >>

(a) The ~~Department~~ **Division** of Arkansas State Police, as employer, shall make contributions to the State Police Retirement System of twenty-two percent (22%) of active member payroll.

SECTION 3556. Arkansas Code § 24–6–209(b)(1), concerning an employer's contribution, is amended to read as follows:

<< AR ST § 24–6–209 >>

(b)(1) At the request of the Executive Secretary of the State Police Retirement System, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall make annual transfers on each June 30 to the system from the remainder of insurance premium taxes enumerated in § 19–6–301(27) before those taxes are transferred to general revenues enumerated in § 19–6–201(19) the amounts of money necessary to amortize the unfunded liabilities over a period not to exceed thirty (30) years.

SECTION 3557. Arkansas Code § 24–6–218(a)(1), concerning survivors' benefits upon the death of an officer killed in the line of duty while not a member of the State Police Retirement System, is amended to read as follows:

<< AR ST § 24–6–218 >>

(a)(1) In the event any uniformed employee of the ~~Department~~ **Division** of Arkansas State Police is killed while in the performance of his or her duties, yet the surviving spouse and surviving children of the uniformed employee of the ~~department~~ **division** are deprived of receiving benefits as prescribed in § 24–6–217 because the uniformed employee was not a member of the system at the time of his or her death, or had not completed any probationary period of service required by regulations of the Arkansas State Police Commission, or had not obtained sufficient service for benefits, the surviving spouse may make application to the Board of Trustees of the State Police Retirement System.

SECTION 3558. Arkansas Code § 24–6–218(d), concerning survivors' benefits upon the death of an officer killed in the line of duty while not a member of the system, is amended to read as follows:

<< AR ST § 24–6–218 >>

(d) Upon certification of these facts by the board, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall direct the Treasurer of State to transfer from the ~~Department~~ **Division** of Arkansas State Police Fund, annually, to the State Police Retirement Fund an amount equal to the funds expended from the State Police Retirement Fund for the payment of survivors' benefits as authorized in this section in order to reimburse the fund therefor.

SECTION 3559. Arkansas Code § 24–11–102(c), concerning an increase in benefits under the municipal firemen's relief and pension funds, is amended to read as follows:

<< AR ST § 24–11–102 >>

(c) If it is determined by the review board that a local pension plan is not complying with the provisions of law governing benefit increases, the executive director shall certify that noncompliance to the ~~Director~~ **Secretary** of the Department of Finance and Administration who shall withhold all moneys otherwise due the plan from the state until compliance is achieved.

SECTION 3560. Arkansas Code § 24–11–202(a), concerning noncompliance with the Arkansas Fire and Police Pension Review Board, is amended to read as follows:

<< AR ST § 24–11–202 >>

(a) If it is determined that a plan is not complying with the provisions of this subchapter, the Executive Director of the Arkansas Fire and Police Pension Review Board shall certify the noncompliance to the ~~Director~~ **Secretary** of the Department of Finance and Administration, who shall withhold all moneys otherwise due the plan from the state until compliance is achieved.

SECTION 3561. Arkansas Code § 24–11–203(b)(1)(E), concerning the creation of the Arkansas Fire and Police Pension Review Board, is amended to read as follows:

<< AR ST § 24–11–203 >>

(E) The ~~Director~~ **Secretary** of the Department of Finance and Administration or the director's **secretary's** designee.

SECTION 3562. Arkansas Code § 24–11–215(c), concerning the allocation of insurance premium tax and special provisions, is amended to read as follows:

<< AR ST § 24–11–215 >>

(c) After transfers are made to cover funds distributed under subsection (b) of this section and the portion of those premium taxes set aside for transfer to the State Police Retirement Fund under § 24–6–209(b), the ~~Director~~ **Secretary** of the Department of Finance and Administration is directed to make annual transfers from the police portion of the revenues to the Policemen's Pension Supplement Program Fund on or before July 25, 1999, and each year thereafter as certified by the Arkansas Fire and Police Pension Review Board on July 1 each year as the amount needed to pay the expenses of and to make payments to the eligible retired police officers and survivors under the Arkansas Policemen's Pension Supplement Program for the coming year of the program.

SECTION 3563. Arkansas Code § 25–1–104 is amended to read as follows:

<< AR ST § 25–1–104 >>

25–1–104. Access of Department of Finance and Administration to agency records.

The Revenue Division of the Department of Finance and Administration, the ~~Department~~ **Division** of Workforce Services, the University of Arkansas at Little Rock, the University of Arkansas at Fayetteville, the Arkansas Economic Development Commission, and any other state agency, board, commission, department, institution, college, university, or authority shall make data, information, statistics, or other records of information available to the Department of Finance and Administration. Provided, however, that such information and records shall not identify persons, people, conglomerates, corporations, monopolies, or others that would from any published data or data within the possession of the office of the ~~Director~~ **Secretary** of the Department of Finance and Administration reveal the identity or any information or data of that particular identity that would be in conflict with federal laws.

SECTION 3564. Arkansas Code § 25–8–101 is amended to read as follows:

<< AR ST § 25–8–101 >>

25–8–101. ~~Creation—Director~~ **Secretary — Organization — Personnel.**

(a) ~~There is created a Department of Finance and Administration.~~

(b) ~~The executive head of the Department of Finance and Administration shall be the Director of the Department of Finance and Administration. The director shall be appointed by the Governor and shall serve at the pleasure of the Governor.~~

(e)(f) **(a)(1)** The Department of Finance and Administration shall consist of the divisions which existed as of July 1, 1971, within the State Administration Department and the Department of Revenues and any other divisions which may be created by law and placed under the Department of Finance and Administration, **subject to the transfer of a division or department of the Department of Finance and Administration as a state entity under the Transformation and Efficiencies Act of 2019, § 25–43–101 et. seq.**

(2) There is created a Racing Division and an Alcoholic Beverage Control Division within the Department of Finance and Administration.

(d) ~~(b)~~ The ~~Director~~ **Secretary** of the Department of Finance and Administration, with the advice and consent of the Governor, shall appoint the heads of the respective divisions. The ~~director~~ **secretary** may appoint an Administrative Assistant for Revenue to serve as the ~~director's~~ **secretary's** agent. All other personnel of the Department of Finance and Administration shall be employed by and serve at the pleasure of the ~~Director~~ **Secretary** of the Department of Finance and Administration, provided that nothing in this section shall be so construed as to reduce any right which an employee of the Department of Finance and Administration shall have under any civil service or merit system.

(e) ~~(c)~~ Each division of the Department of Finance and Administration shall be under the direction, control, and supervision of the ~~director~~ **secretary** of the department . The ~~director~~ **secretary** may delegate his or her functions, powers, and duties to the various divisions of the Department of Finance and Administration as he or she shall deem desirable and necessary for the effective and efficient operation of the department **Department of Finance and Administration**.

(f) ~~(d)~~ For the purposes of the tax, driver's license, and motor vehicle registration and licensing laws, the term "~~director~~ **secretary**" shall mean the ~~Director~~ **Secretary** of the Department of Finance and Administration, the Administrative Assistant for Revenue, or his or her authorized agent. The Administrative Assistant for Revenue shall act as the ~~director's~~ **secretary's** agent and take any and all actions necessary to administer the laws.

SECTION 3565. Arkansas Code § 25–8–102 is amended to read as follows:

<< AR ST § 25–8–102 >>

25–8–102. Authority of ~~director~~ **secretary generally.**

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration, with the approval of the Governor, may adopt reasonable rules, regulations, and procedures, not inconsistent with the law, which he or she deems desirable for the effective administration of the Department of Finance and Administration and any of its divisions.

(b) The ~~director~~ **secretary** shall have authority to install any recordkeeping and other procedures in his or her office and in other offices and departments of the state which he or she shall deem necessary or advisable to carry out his or her functions and duties. However, nothing in this section shall be construed to grant the ~~director~~ **secretary** any authority to establish recordkeeping or other procedures, or rules and regulations with respect to the elected constitutional officers of the state, the General Assembly and its committees, or other agencies who are exempt from all or a part of the procedures set forth in the Arkansas Procurement Law, § 19–11–201 et seq., and the General Accounting and Budgetary Procedures Law, § 19–4–101 et seq.

(c) The ~~director~~ **secretary** may from time to time establish within the department any sections or other administrative units which he or she may deem desirable for the effective operation of the department and any division thereof, provided that the duties and functions of the sections or administrative units are within the purpose authorized by law.

(d) The ~~director~~ **secretary** may appoint a designee to appear on behalf of the ~~director~~ **secretary** at meetings of any board or commission of which the ~~director~~ **secretary** is a member in his or her capacity as ~~Director~~ **Secretary** of the Department of Finance and Administration or Chief Fiscal Officer of the State. The designee may vote on behalf of the ~~director~~ **secretary**.

SECTION 3566. Arkansas Code § 25–8–104 is amended to read as follows:

<< AR ST § 25–8–104 >>

25–8–104. Director of Division of Budgets and Accounting.

The Director of the Division of Budgets and Accounting shall be the Deputy Director of the Department of Finance and Administration. He or she shall have all functions, powers, and duties granted under § 19–1–203 and all other laws pertaining to his or her office and any other functions, powers, and duties which are assigned and delegated to him or her by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3567. Arkansas Code § 25–8–105(b), concerning federal aid programs, is amended to read as follows:

<< AR ST § 25–8–105 >>

(b) All applications for federal grants submitted by state agencies shall be processed through the department. However, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the discretion to authorize state agencies to file copies of grant applications with the department as a substitute for the processing requirement.

SECTION 3568. Arkansas Code § 25–8–106(b)(1), concerning the marketing and redistribution of state personal property, is amended to read as follows:

<< AR ST § 25–8–106 >>

(b)(1) There is created within the Office of State Procurement ~~of the Department of Finance and Administration~~ a Marketing and Redistribution Section for the purpose of promoting and ensuring effective utilization of surplus state property.

(2)(A) All state agencies, boards, commissions, departments, and colleges and universities are required and county, municipal, or other tax-supported institutions are authorized to utilize the services of the Marketing and Redistribution Section, unless specifically exempted in writing by the Director of the Office of State Procurement ~~of the Department of Finance and Administration~~ .

(B)(i) Nothing in this section shall be construed to make it mandatory that county, municipal, or other local government units utilize the services of the Marketing and Redistribution Section.

(ii) Nothing in this section shall be construed to make it mandatory that any agency, department, division, office, board, commission, or institution of this state, including state-supported institutions of higher education, utilize the services of the Marketing and Redistribution Section in the sale of surplus computer equipment and electronics to state agency employees for a price not less than ten percent (10%) above depreciated value.

(3) The ~~Department of Finance and Administration~~ **Department of Transformation and Shared Services** shall maintain adequate and accurate records of the costs for operating the Marketing and Redistribution Section and is authorized to establish fair and reasonable charges for the services of the section. The charges for services shall be deposited in the State Treasury as nonrevenue receipts, there to be credited to the Property Sales Holding Fund for the operation, maintenance, and improvement of the Marketing and Redistribution Section.

SECTION 3569. The introductory language of Arkansas Code § 25–8–106(e), concerning the marketing and redistribution of state personal property, is amended to read as follows:

<< AR ST § 25–8–106 >>

(e) Proceeds from the sale, transfer, or rental of property by the Director of the Office of State Procurement of the ~~Department of Finance and Administration~~ shall be accounted for as follows:

SECTION 3570. Arkansas Code § 25–8–106(f), concerning the marketing and redistribution of state personal property, is amended to read as follows:

<< AR ST § 25–8–106 >>

(f) The ~~Director~~ **Secretary** of the ~~Department of Finance and Administration~~ **Transformation and Shared Services** is authorized to promulgate reasonable rules and regulations, not inconsistent with law, for compliance with the provisions of this section, the Arkansas Procurement Law, § 19–11–201 et seq., the General Accounting and Budgetary Procedures Law, § 19–4–101 et seq., and the sale of surplus commodities to not-for-profit organizations under § 22–1–101.

SECTION 3571. Arkansas Code § 25–8–108 is amended to read as follows:

<< AR ST § 25–8–108 >>

25–8–108. Contract labor.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may authorize use of contract labor in the Revenue Division of the Department of Finance and Administration from January until July of a given year without regard to any limitation of duration or hours.

SECTION 3572. Arkansas Code § 25–8–109 is amended to read as follows:

<< AR ST § 25–8–109 >>

25–8–109. Loans to marketing and redistribution.

In the event the moneys available in the Property Sales Holding Fund are not adequate during any month of each year of the fiscal biennium to meet the payroll commitments of the Marketing and Redistribution Section of the Office of State Procurement of the ~~Department of Finance and Administration~~ for the regular salaries and personal services matching appropriation, the Chief Fiscal Officer of the State is hereby authorized to make loans, from time to time as needed, from the Budget Stabilization Trust Fund to the Property Sales Holding Fund to provide the moneys required to meet the payroll and personal services matching appropriation requirements for any such month. Provided that, if at the end of each fiscal year the Property Sales Holding Fund did not receive sufficient income to repay the entire amount of any such moneys borrowed from the Budget Stabilization Trust Fund for the purposes as authorized herein, the Chief Fiscal Officer of the State is hereby authorized to transfer from the State Central Services Fund such amount as is necessary to reimburse the Budget Stabilization Trust Fund in behalf of loans made to the Property Sales Holding Fund to reimburse the Budget Stabilization Trust Fund for the amount of any such loan remaining unpaid at the end of each fiscal year.

SECTION 3573. Arkansas Code § 25–8–110 is amended to read as follows:

<< AR ST § 25–8–110 >>

25–8–110. Additional duties Duties of Department of Transformation and Shared Services and Department of Finance and Administration.

(a) The Department of ~~Finance and Administration~~ **Transformation and Shared Services** shall:

- (1) Develop retention schedules for control, preservation, protection, and disposition of the electronic records of state agencies under § 25–18–601 et seq.;
- (2) Direct the development of policies and procedures that state agencies shall follow in developing information technology plans and technology-related budgets and technology project justification;
- (3) Review procurements to ensure conformity with information policies and standards and state-level plans and implementation strategies;
- (4) Advise state agencies on information technology contracts and agreements; **and**
- (5) Develop and promulgate rules and guidelines governing the retention and management of public records commonly found in most state agencies under § 25–18–601 et seq.; ~~and~~

~~(6)(A)~~ **(b)(1)** With assistance from the ~~Department~~ **Division** of Workforce Services, **the Department of Finance and Administration shall** establish and maintain a web page to:

- (i) **(A)** Provide a menu of links to employer-related state web applications for required reporting, tax payments, and other data submissions;
- (ii) **(B)** Allow an employer to select a link based upon a desired type of function or application and be redirected to the appropriate agency web application; and
- (iii) **(C)** Provide information about tax submissions, employment reports, and child support submissions on the respective agency sites, including without limitation due dates, payment options, and agency contact information.

~~(B)~~ **(2)**¹⁶ The initial scope of the web page shall include links to:

- (i) **(A)** Online taxpayer services administered by the Department of Finance and Administration through the Arkansas Taxpayer Access Point web page;
- (ii) **(B)** Unemployment and new hire submissions administered by the ~~Department~~ **Division** of Workforce Services; and
- (iii) **(C)** Information concerning employer reporting and payment functions provided by the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration.

~~(C)~~ **(3)** The web page shall be designed with sufficient flexibility to allow additional links to other state agencies to be added as appropriate.

SECTION 3574. Arkansas Code § 25–28–101 is amended to read as follows:

<< AR ST § 25–28–101 >>

25–28–101. Creation — Director — Organization — Personnel.

(a) There is created the Assessment Coordination ~~Department~~ **Division**.

(b)(1) The executive head of the department **Assessment Coordination Division** shall be the Director of the Assessment Coordination ~~Department~~ **Division**.

(2) The director shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.

(3) The director shall report to the Secretary of the Department of Finance and Administration.

(c) The department **Assessment Coordination Division** shall consist of the divisions which may be necessary to fulfill its purposes and which may be created by law and placed under the department **Assessment Coordination Division**.

(d)(1) The director, **in consultation with the Secretary of the Department of Finance and Administration**, shall appoint the heads of the respective divisions.

(2) All personnel of the department **Assessment Coordination Division** shall be employed by **the Department of Finance and Administration** and shall serve at the pleasure of the director **secretary**.

(3) However, nothing in this section shall be so construed as to reduce any right which an employee of the department **Assessment Coordination Division** shall have under any civil service or merit system.

(e)(1) Each division of the department **Assessment Coordination Division** shall be under the direction, control, and supervision of the director.

(2) The director may delegate his or her functions, powers, and duties to the various divisions of the **Assessment Coordination Division** as he or she shall deem desirable and necessary for the effective and efficient operation of the department **division**.

SECTION 3575. Arkansas Code § 25–28–102 is repealed.

<< Repealed: AR ST § 25–28–102 >>

~~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 3576. Arkansas Code § 25–28–103(c)–(e), concerning the authority of the Arkansas Public Service Commission over the Assessment Coordination Division, are repealed.

<< AR ST § 25–28–103 >>

~~(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 3577. Arkansas Code § 25-28-104 is amended to read as follows:

<< AR ST § 25-28-104 >>

25-28-104. Administrative Procedure Act.

The Assessment Coordination Department **Division** shall be subject to the **Arkansas** Administrative Procedure Act, § 25-15-201 et seq.

SECTION 3578. Arkansas Code § 25-28-107 is amended to read as follows:

<< AR ST § 25-28-107 >>

25-28-107. Requirements of Director of the Assessment Coordination Department Division.

From and after July 1, 2000, the **The** Director of the Assessment Coordination Department **Division** shall meet the qualifications required for certification or licensure as a Level 4 Appraiser in Arkansas, provided that the formal course work was or is satisfactorily completed in another state. At the time of appointing the director, the Governor shall include in the appointment document a statement that the appointee meets the qualifications prescribed by law.

SECTION 3579. Arkansas Code § 25-28-108 is amended to read as follows:

<< AR ST § 25-28-108 >>

25-28-108. Specifications for computer-assisted mass appraisal software.

(a) By July 1, 2005, the Assessment Coordination Department **Division** shall adopt and implement by rules final specifications for computer-assisted mass appraisal software.

(b)(1) The rules may provide a procedure by which the department **division** may directly compensate computer-assisted mass appraisal software providers who are in compliance with requirements set forth in the final specifications for computer-assisted mass appraisal software.

(2) The department **division** shall require computer-assisted mass appraisal software providers to comply with requirements set forth in the final specifications for computer-assisted mass appraisal software.

SECTION 3580. Arkansas Code § 25-16-205(b), concerning the transition of funds, is amended to read as follows:

<< AR ST § 25-16-205 >>

(b) The Director **Secretary** of the Department of Finance and Administration shall issue limitations and guidelines on the expenditure of transition funds and make those limitations and guidelines a part of any appropriation.

SECTION 3581. Arkansas Code § 25–16–511(c)(1) and (2), concerning recordkeeping requirements, are amended to read as follows:

<< AR ST § 25–16–511 >>

(c)(1) The Auditor of State is authorized and directed to keep a register in his or her office of all checks which have been drawn upon state agency bank funds and approved for payment by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(2) The ~~director~~ **secretary** is directed to transmit to the Auditor of State all documents and information necessary to prepare this register.

SECTION 3582. Arkansas Code § 25–18–214(b), concerning clerks and personal liability, is amended to read as follows:

<< AR ST § 25–18–214 >>

(b) The volume shall not be loaned or removed except that the clerk, upon approval of the ~~Director~~ **Secretary** of the Department of Finance and Administration, may remove or otherwise dispose of bound volumes if the official reports are available in electronic or other readily accessible medium in each county in the State of Arkansas for the general use of the courts, county officials, and attorneys.

SECTION 3583. Arkansas Code § 25–18–224(a)(2), concerning the distribution of quasijudicial opinions and orders, is amended to read as follows:

<< AR ST § 25–18–224 >>

(2) Such quasijudicial board, commission, or agency may make a charge for providing such opinions and orders, but the charge shall be limited to the actual cost of reproduction and shall be approved by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3584. Arkansas Code § 25–18–402 is amended to read as follows:

<< AR ST § 25–18–402 >>

25–18–402. Exemptions.

This subchapter does not prohibit the ~~Director~~ **Secretary** of the Department of Finance and Administration and his or her authorized agents from entering into agreements with taxpayers pursuant to § 26–18–705 which shall not be subject to public disclosure if the subject matter of the agreement is protected from public disclosure by the Freedom of Information Act of 1967, § 25–19–101 et seq., or § 26–18–303, or other state law.

SECTION 3585. Arkansas Code § 25–19–105(b)(3), concerning the examination and copying of public records, is amended to read as follows:

<< AR ST § 25–19–105 >>

(3) The site files and records maintained by the Arkansas Historic Preservation Program of the ~~Department~~ **Division** of Arkansas Heritage and the Arkansas Archeological Survey;

SECTION 3586. Arkansas Code § 25–30–205 is amended to read as follows:

<< AR ST § 25–30–205 >>

25–30–205. Office facilities.

The Building Authority Division of the ~~Department of Finance and Administration~~ shall ensure that all offices of Arkansas Rehabilitation Services of the ~~Department of Career Education~~ are exemplary models of accessibility and conform to the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., accessibility guidelines.

SECTION 3587. Arkansas Code § 26–5–102(a), concerning an election to report tax on the basis of volume percentage, is amended to read as follows:

<< AR ST § 26–5–102 >>

(a) Every taxpayer required to file an income tax return pursuant to provisions of the Income Tax Act of 1929, § 26–51–101 et seq., whose only activity within this state consists of sales and does not include owning or renting real estate or tangible personal property in this state and whose dollar volume of gross sales made during the last year within the State of Arkansas or its subdivisions, as the case may be, is not in excess of one hundred thousand dollars (\$100,000) may elect to report any tax due the State of Arkansas on the basis of a percentage of this volume, and the ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to adopt rates which are calculated to produce a tax thereon which reasonably approximates the tax otherwise due under the laws of this state from these taxpayers.

SECTION 3588. Arkansas Code § 26–5–103 is amended to read as follows:

<< AR ST § 26–5–103 >>

26–5–103. State representative.

The ~~Director~~ **Secretary** of the Department of Finance and Administration of the State of Arkansas shall represent this state on the Multistate Tax Commission. The ~~director~~ **secretary** may, with the approval of the Governor, designate an alternate to serve on the commission in his or her place if there is on file with the commission written notification of the designation and the identity of the alternate.

SECTION 3589. Arkansas Code § 26–5–106 is amended to read as follows:

<< AR ST § 26–5–106 >>

26–5–106. Legal counsel.

The chief attorney of the Revenue Division of the Department of Finance and Administration is designated as counsel to represent this state at meetings of the Multistate Tax Commission. However, the ~~Director~~ **Secretary** of the Department of Finance and Administration may request the Attorney General of this state to attend meetings of the commission or to designate one (1) of his or her assistant attorneys general to attend commission meetings.

SECTION 3590 Arkansas Code § 26–5–107 is amended to read as follows:

<< AR ST § 26–5–107 >>

26–5–107. Interstate audit procedures.

The provisions of Article VIII of the Multistate Tax Compact, § 26–5–101, pertaining to interstate audits, shall not be applicable to this state unless the ~~Director~~ **Secretary** of the Department of Finance and Administration shall, with the approval of the Governor, determine that compliance with the interstate audits procedures would be in the better interest of this state and shall notify the commission of this fact in writing.

SECTION 3591. Arkansas Code § 26–5–108 is amended to read as follows:

<< AR ST § 26–5–108 >>

26–5–108. Authorized forms.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to adopt and use forms promulgated by the Multistate Tax Commission pursuant to Article VII of the Multistate Tax Compact, § 26–5–101.

SECTION 3592. Arkansas Code § 26–17–201 is amended to read as follows:

<< AR ST § 26–17–201 >>

26–17–201. Authority to employ.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall employ such clerical and legal assistants as he or she may deem necessary for the proper function of the Revenue Division of the Department of Finance and Administration.

SECTION 3593. Arkansas Code § 26–17–202(a), concerning attorneys employed by the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 26–17–202 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall employ one (1) or more attorneys for the Revenue Division of the Department of Finance and Administration if he or she deems it necessary and if a saving of money can be had by employing one (1) or more attorneys for the division.

SECTION 3594. The introductory language of Arkansas Code § 26–17–203, concerning field auditors, is amended to read as follows:

<< AR ST § 26–17–203 >>

It shall be the duty of the ~~Director~~ **Secretary** of the Department of Finance and Administration in selecting field auditors to be employed by the Revenue Division of the Department of Finance and Administration to require that the applicants meet the following qualifications:

SECTION 3595. Arkansas Code § 26–17–204 is amended to read as follows:

<< AR ST § 26–17–204 >>

26–17–204. Bond.

All deputy commissioners and other employees of the Revenue Division of the Department of Finance and Administration collecting or handling funds shall be placed under bond, premium on which shall be paid by the state

upon vouchers issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration payable out of funds appropriated for that purpose.

SECTION 3596. Arkansas Code § 26-17-301 is amended to read as follows:

<< AR ST § 26-17-301 >>

26-17-301. Performance required.

All of the employees of the Revenue Division of the Department of Finance and Administration shall perform such duties and respond to such directions as the ~~Director~~ **Secretary** of the Department of Finance and Administration from time to time may enjoin.

SECTION 3597. Arkansas Code § 26-17-302 is amended to read as follows:

<< AR ST § 26-17-302 >>

26-17-302. Motor vehicle license fees.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall collect the motor vehicle license fees prescribed by law, and he or she is empowered to make and enforce the necessary rules and regulations to ensure those collections.

SECTION 3598. Arkansas Code § 26-17-303 is amended to read as follows:

<< AR ST § 26-17-303 >>

26-17-303. Petroleum products.

Inspection of petroleum oils and products required to be made by law shall devolve on the ~~Director~~ **Secretary** of the Department of Finance and Administration who shall collect the fees therefor provided by law.

SECTION 3599. Arkansas Code § 26-17-304 is amended to read as follows:

<< AR ST § 26-17-304 >>

26-17-304. Suits and other proceedings.

(a)(1)(A) The ~~Director~~ **Secretary** of the Department of Finance and Administration may:

- (i) Institute and prosecute in his or her name as such all suits and other proceedings necessary for the collection of any taxes or fees collectible by him or her and which have become delinquent; and
- (ii) Defend all suits and other proceedings concerning taxes, fees, or licenses administered by the ~~director~~ **secretary**.

(B) All suits and proceedings instituted by the ~~director~~ **secretary** or defended by the ~~director~~ **secretary** that concern taxes, fees, or licenses administered by the Revenue Division of the Department of Finance and Administration may be maintained or defended by an attorney authorized to represent the interests of the division pursuant to § 26-17-202.

(2) No deposits of advance cost shall be required of the ~~director~~ **secretary** in any suit or proceedings, nor shall he or she be required to give bond for cost, indemnity, or stay as a condition to the institution of any suit or proceedings or to the issuance, service, or execution of any process in any suit or proceedings or ancillary to any suit or proceedings or to the appeal from any adverse action.

(b)(1) The ~~director~~ **secretary** shall not be required to advance or pay any court costs to any court clerk for the institution or prosecution of any suit filed in his or her official capacity.

(2) No bond shall be required of the ~~director~~ **secretary** in obtaining restraining orders, injunctions, or any other cases in which a bond is required to be made by a litigant, including supersedeas bond upon appeal.

SECTION 3600. Arkansas Code § 26–17–402 is amended to read as follows:

<< AR ST § 26–17–402 >>

26–17–402. Authority to enter agreements.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized and empowered, on behalf of the State of Arkansas, to enter into reciprocal pacts and agreements with other states and with the government of the United States for the exchange of information and copies of public and private records, documents, books, and all other matters relative to taxes in which any state may be interested if the state or United States government is a party to such an agreement or pact.

SECTION 3601. Arkansas Code § 26–17–403 is amended to read as follows:

<< AR ST § 26–17–403 >>

26–17–403. Powers and duties — Definition.

The ~~Director~~ **Secretary** of the Department of Finance and Administration and his or her agents are authorized and empowered to perform the duties necessary to comply with any pact or agreement with any other state or with the government of the United States as provided:

(1) Upon request of any state or government of the United States that is a party to a reciprocal pact or agreement with the State of Arkansas, the ~~director~~ **secretary** and his or her agents are empowered to furnish such information from public or private records as may be requested by a state;

(2) The ~~director~~ **secretary** and his or her agents in the performance of these duties are empowered to require any person, firm, or corporation to make records available to the ~~director~~ **secretary** for examination and copying. These records shall be available to the ~~director~~ **secretary** or his or her agents at all reasonable times;

(3) The ~~director~~ **secretary** and his or her agents are empowered to question any person with reference to any matter involving Arkansas taxes or the taxes of any state or government of the United States with which the State of Arkansas may be a party to a pact or agreement for exchange of tax information if the state or government of the United States shall request assistance of the State of Arkansas in obtaining information. The ~~director~~ **secretary** and his or her agents are empowered to take depositions or written sworn statements in the performance of these duties. All persons, firms, or corporations shall, upon demand of the ~~director~~ **secretary** or his or her agents, supply full and accurate information. That information shall not be used against the person, firm, or corporation supplying the information in any grand jury investigation, indictment, or trial of any person, firm, or corporation involving violation of tax laws, it being the intent of this provision to comply fully with constitutional rights guaranteed to defendants which permit defendants to refrain from giving information or testimony against themselves;

(4) The ~~director~~ **secretary** and his or her agents shall not be empowered to make arrests of persons in Arkansas charged with violating tax laws of other states, unless those persons shall have been charged in the courts of other states with such offenses and notices thereof, together with a certified copy of the charges, shall have been transmitted to the ~~director~~ **secretary**. Any person so arrested shall be permitted to maintain all rights relative to extradition of prisoners;

(5)(A) As used in this subdivision (5), “affected person” means a person who may be authorized by the ~~director~~ **secretary** to access or view federal tax information as a requirement of the person's job duties and who is also:

- (i) A current employee of the Department of Finance and Administration;
- (ii) An applicant for employment with the Department of Finance and Administration;
- (iii) A current employee of a contractor of the Department of Finance and Administration; or
- (iv) An applicant for employment with a contractor of the Department of Finance and Administration.

(B) The ~~director~~ **secretary** shall establish a criminal background investigation policy for all affected persons that shall include at least the following provisions:

- (i) An affected person shall authorize the ~~director~~ **secretary** or his or her designee to obtain a state and national criminal background check at the expense of the Department of Finance and Administration;
- (ii) A criminal background check shall be conducted by the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police and the Federal Bureau of Investigation and shall include the taking of fingerprints;
- (iii) A criminal background check shall satisfy the background investigation standards established by the Internal Revenue Service with regard to access to federal tax information;
- (iv) A criminal background check performed on an affected person before his or her employment by the ~~director~~ **secretary** or a contractor of the Department of Finance and Administration shall be conducted before an offer of employment is extended by the ~~director~~ **secretary** or the contractor of the Department of Finance and Administration;
- (v) A criminal background check performed on an affected person who is already employed by the ~~director~~ **secretary** or a contractor of the Department of Finance and Administration shall be conducted at least one (1) time every ten (10) years;
- (vi) An affected person shall authorize the release of the criminal background check results to the ~~director~~ **secretary** or his or her designee, and the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police shall forward to the ~~director~~ **secretary** or his or her designee all information obtained as a result of the criminal background check;
- (vii) Information received from a criminal background check shall be used only for the purpose of making decisions regarding the employment or retention of an affected person in a position in which access to federal tax information may or will be authorized;
- (viii) Information received by the ~~director~~ **secretary** or his or her designee from the Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police under this section shall not be released to any party other than the affected person or his or her authorized representative; and

(ix)(a) An affected person who is employed by the Department of Finance and Administration or by a contractor of the Department of Finance and Administration shall notify the ~~director~~ **secretary** or his or her designee of an arrest for a misdemeanor or felony offense.

(b) Any information received under subdivision (5)(B)(ix)(a) of this section shall be used only for the purpose of the ~~director~~ **secretary** making a decision regarding retention of an affected person following the arrest.

(c) Failure to provide notice of a subsequent arrest under subdivision (5)(B)(ix)(a) of this section may be grounds for immediate termination of the affected person's employment or other action as the ~~director~~ **secretary** or his or her designee deems appropriate.

SECTION 3602. Arkansas Code § 26-17-501 is amended to read as follows:

<< AR ST § 26-17-501 >>

26-17-501. Penalty.

(a) If the ~~Director~~ **Secretary** of the Department of Finance and Administration, or any of his or her deputies or assistants shall collect or receive any tax, revenue, or funds by virtue of his or her official duties or position and shall neglect or fail to turn them over to the Treasurer of State within ten (10) days after the tax, revenue, or funds shall have come into his or her hands or possession, the offender shall be deemed guilty of a felony and be punished by confinement in the state penitentiary for a period of not less than one (1) year and not more than five (5) years.

(b) The ~~director~~ **secretary** shall be liable upon his or her official bond for all funds not turned into the Treasurer of State within ten (10) days after they may come into the hands of the ~~director~~ **secretary** or any of his or her deputies or assistants.

SECTION 3603. Arkansas Code § 26-17-502 is amended to read as follows:

<< AR ST § 26-17-502 >>

26-17-502. Duty to remit revenues.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall turn over to the Treasurer of State all revenues that may come into his or her possession or into the possession of any of his or her deputies, promptly on the day the funds reach his or her office unless received after the office of the Treasurer of State shall have closed for the day, in which event the funds shall be turned over to the Treasurer of State on the first day the Treasurer of State's office is open after the funds are received at the office of the ~~director~~ **secretary**.

SECTION 3604. Arkansas Code § 26-17-503 is amended to read as follows:

<< AR ST § 26-17-503 >>

26-17-503. Daily remittance.

All collectors and field inspectors shall daily report and remit to the ~~Director~~ **Secretary** of the Department of Finance and Administration all collections made by them.

SECTION 3605. Arkansas Code § 26-17-504 is amended to read as follows:

<< AR ST § 26-17-504 >>

26-17-504. Deposits and collections.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall make daily deposits into the State Treasury of all moneys and checks collected by him or her.

(b) The Treasurer of State shall promptly return to the ~~director~~ **secretary** all checks which for any reason were not paid, and it shall be the duty of the ~~director~~ **secretary** to collect all such checks.

SECTION 3606. Arkansas Code § 26-18-104(1), concerning the definition of the “assessment” under the Arkansas Tax Procedure Act, is amended to read as follows:

<< AR ST § 26-18-104 >>

(1) “Assessment” means the determination and imposition of the amount of any state tax due and owing, whether made on a return filed by a taxpayer or by the ~~Director~~ **Secretary** of the Department of Finance and Administration on audit or otherwise;

SECTION 3607. Arkansas Code § 26-18-104(4), concerning the definition of the “director” under the Arkansas Tax Procedure Act, is amended to read as follows:

<< AR ST § 26-18-104 >>

(4) “~~Director~~ **Secretary**” means the ~~Director~~ **Secretary** of the Department of Finance and Administration, State of Arkansas, or the Administrative Assistant for Revenue, or his or her authorized agent;

SECTION 3608. Arkansas Code § 26-18-211 is amended to read as follows:

<< AR ST § 26-18-211 >>

26-18-211. Failure to correct noncompliance after notification.

If a taxpayer has been previously advised that he or she has failed to comply with the provisions of the Arkansas Code or the rules and regulations as promulgated by the ~~Director~~ **Secretary** of the Department of Finance and Administration by his or her failure to include all of the information required to be shown on the return or the inclusion of incorrect information and he or she continues to disregard those provisions, there shall be assessed a penalty of fifty dollars (\$50.00) per return, unless the failure is due to reasonable cause and not due to willful neglect.

SECTION 3609. Arkansas Code § 26-18-212 is amended to read as follows:

<< AR ST § 26-18-212 >>

26-18-212. Failure to file a return after notification.

If a taxpayer has previously been advised that the taxpayer has not complied with the provisions of §§ 26-51-804(a), 26-51-908(g)(2), 26-52-501(a), 26-53-125(a)(1), or 26-55-229(b), because the taxpayer has not filed a return or notified the ~~Director~~ **Secretary** of the Department of Finance and Administration that the taxpayer is no longer required to file a return, even though no tax is due, and the taxpayer continues to disregard those provisions, there shall be assessed a penalty of fifty dollars (\$50.00) per return, unless the failure is due to reasonable cause and not due to willful neglect.

SECTION 3610. Arkansas Code § 26–18–301 is amended to read as follows:

<< AR ST § 26–18–301 >>

26–18–301. Duties of ~~director~~ secretary.

(a) The ~~director~~ **Secretary of the Department of Finance and Administration** shall:

- (1) Administer and enforce the provisions of every state tax law and when necessary shall promulgate and enforce the rules and regulations;
- (2) Audit and properly determine and compute the state tax payable by any taxpayer subject to taxation under any state tax law;
- (3) Assess and collect any state tax; and
- (4) Administer and enforce all state tax laws.

(b) The ~~director~~ **secretary** shall make available at cost to the general public all rules and regulations promulgated by the ~~director~~ **secretary**.

(c) The ~~director~~ **secretary** shall provide forms, schedules, and returns for all state tax laws.

(d) The ~~director~~ **secretary** may accept electronic or digital signatures as binding, valid signatures on all reports, forms, or schedules required to be filed by state law.

SECTION 3611. Arkansas Code § 26–18–302 is amended to read as follows:

<< AR ST § 26–18–302 >>

26–18–302. Preservation of records and copies.

(a)(1) The ~~director~~ **Secretary of the Department of Finance and Administration** shall keep and permanently preserve the original of all official rules, regulations, decisions, and orders and the effective date thereof.

(2)(A) A copy of a rule, regulation, decision, or order made by the ~~director~~ **secretary** in the administration of any state tax law may be authenticated under his or her official seal.

(B) An authenticated copy is admissible in any court in this state under § 16–46–101.

(C) The ~~director~~ **secretary** may charge a reasonable fee, not to exceed five dollars (\$5.00), to cover the cost of authentication.

(D) Under no circumstances shall the ~~director~~ **secretary** furnish copies of records which may by law be prohibited from being made public.

(b)(1) The ~~director~~ **secretary** may microfilm any returns, reports, records, or documents received or issued by him or her in the administration of any state tax law.

(2) The microfilm records shall be properly indexed for easy retrieval, and one (1) copy shall be placed in a fireproof vault.

(3) These records are admissible as evidence in any court in this state under § 16–46–101 and shall have the same weight and force as the original thereof.

(c) If the ~~director~~ **secretary** determines that a method for the reproduction of records is more practicable than the use of microfilm, he or she may use that method.

SECTION 3612. Arkansas Code § 26–18–303(a), concerning confidential records, privilege, and exceptions, is amended to read as follows:

<< AR ST § 26–18–303 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration is the official custodian of all records and files required by any state tax law to be filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration and is required to take all steps necessary to maintain their confidentiality.

(2)(A)(i) Except as otherwise provided by this chapter, the records and files of the ~~Director~~ **Secretary** of the Department of Finance and Administration concerning the administration of any state tax law are confidential and privileged.

(ii) These records and files and any information obtained from these records or files or from any examination or inspection of the premises or property of any taxpayer shall not be divulged or disclosed by the ~~Director~~ **Secretary** of the Department of Finance and Administration or any other person who may have obtained these records and files.

(B) It is the specific intent of this chapter that all tax returns, audit reports, and information pertaining to any tax returns, whether filed by individuals, corporations, partnerships, or fiduciaries, shall not be subject to the provisions of the Freedom of Information Act of 1967, § 25–19–101 et seq.

SECTION 3613. Arkansas Code § 26–18–303(b)(1)–(10), concerning confidential records, privilege, and exceptions, are amended to read as follows:

<< AR ST § 26–18–303 >>

(1) Publication of statistics by the ~~Director~~ **Secretary** of the Department of Finance and Administration classified to prevent the identification of a particular taxpayer;

(2) Use of the information in records filed under any state tax law by the ~~Director~~ **Secretary** of the Department of Finance and Administration when conducting any audit or investigation of any taxpayer in regard to any state tax;

(3)(A) Disclosure of information to the Attorney General of this state, any prosecuting attorney, or any other individual who is empowered by law to prosecute criminal and civil violations of any state tax law when the ~~Director~~ **Secretary** of the Department of Finance and Administration initiates the investigation.

(B) If the prosecution is initiated by the Attorney General or a prosecuting attorney, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall not disclose any information unless required by subpoena issued by a circuit court.

(C) Information may be introduced as evidence by the Attorney General, a prosecuting attorney, or other individual so empowered when the individual is prosecuting any civil or criminal violation of state tax law;

(4) Disclosure compelled by any Arkansas circuit court, the Supreme Court, the Court of Appeals, or by any federal court of information involved in any case or controversy before that court;

(5) Disclosure by the taxpayer or the taxpayer's authorized agent or by the ~~Director~~ **Secretary** of the Department of Finance and Administration, at the taxpayer's request, of any information which the ~~Director~~ **Secretary** of the Department of Finance and Administration has concerning that taxpayer;

(6) Disclosure by the ~~Director~~ **Secretary** of the Department of Finance and Administration, at the ~~Director~~ **Secretary** of the Department of Finance and Administration's discretion, of information from the records of any state tax law to comparable officials of any other state or the United States who are charged with the administration of a similar tax;

(7) Disclosure of motor vehicle titling and registration information, all licenses and permits issued to owners and operators of coin-operated amusement machines pursuant to §§ 26-57-402, 26-57-408 — 26-57-421, and 26-77-303, and tax records, files, and other information relating to sales of aviation fuel at airports and other aviation fuel outlets;

(8) Disclosure of information other than income tax information at an administrative hearing held regarding the issuance, cancellation, revocation, or suspension of licenses or permits issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration or any other state agency or department;

(9)(A) Disclosure to the Student Loan Authority Division of the Arkansas Development Finance Authority, the ~~Department~~ **Division** of Higher Education, the Student Loan Guarantee Foundation of Arkansas, or any Arkansas public institution of higher education of the last known address or whereabouts or the last known employer of any person from whom these agencies are charged with collecting a student loan or other student indebtedness.

(B) In providing such information, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall not allow the Student Loan Authority Division of the Arkansas Development Finance Authority, the Student Loan Guarantee Foundation of Arkansas, the ~~Department~~ **Division** of Higher Education, or any Arkansas public institution of higher education to examine the tax return;

(10)(A) In order to ensure proper payment to vendors by all agencies of state government or by county governments or city governments, information about the receipt or nonreceipt of sales tax permits by vendors must be made available by the ~~Director~~ **Secretary** of the Department of Finance and Administration upon request by these agencies of state government or by county governments or city governments.

(B) Therefore, notwithstanding any provision of this chapter or any other law to the contrary, in instances when state agencies, boards, commissions, and other branches of state government or county governments or city governments identify to the ~~Director~~ **Secretary** of the Department of Finance and Administration the identity of vendors receiving payments and ask the ~~Director~~ **Secretary** of the Department of Finance and Administration whether these vendors have been issued sales tax permits, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall answer these inquiries;

SECTION 3614. Arkansas Code § 26-18-303(16)(B) and (C), concerning confidential records, privilege, and exceptions, are amended to read as follows:

<< AR ST § 26-18-303 >>

(B) This information may be released only following completion of an audit or investigation by the ~~Director~~ **Secretary** of the Department of Finance and Administration and following a determination by the ~~Director~~ **Secretary** of the Department of Finance and Administration that there is a strong possibility the taxpayer has failed to properly assess the taxpayer's personal property in the county.

(C) In providing this information, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall not allow the county assessors to examine any tax returns or audit records;

SECTION 3615. Arkansas Code § 26-18-303(b)(21), concerning confidential records, privilege, and exceptions, is amended to read as follows:

<< AR ST § 26-18-303 >>

(21)(A) To perform audit and compliance duties, disclosure to the ~~Department~~ **Division** of Workforce Services of withholding tax information reported by companies doing business in Arkansas, including without limitation taxpayer names, taxpayer addresses, tax identification numbers, and tax withholding information.

(B) Information received by the ~~Department~~ **Division** of Workforce Services under this section shall remain confidential and is not subject to disclosure except in accordance with this section;

SECTION 3616. Arkansas Code § 26-18-303(c), concerning confidential records, privilege, and exceptions, is amended to read as follows:

<< AR ST § 26-18-303 >>

(c) The provisions of this section shall be strictly interpreted and shall not permit any other disclosure of tax information concerning a taxpayer, whether the taxpayer is an individual, a corporation, a partnership, or a fiduciary, that is contained in the records and files of the ~~Director~~ **Secretary** of the Department of Finance and Administration relating to income tax or any other state tax administered under this chapter.

SECTION 3617. Arkansas Code § 26-18-303(e) and (f), concerning confidential records, privilege, and exceptions, are amended to read as follows:

<< AR ST § 26-18-303 >>

(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 3618. Arkansas Code § 26–18–303(g)(1), concerning confidential records, privilege, and exceptions, is amended to read as follows:

<< AR ST § 26–18–303 >>

(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 3619. Arkansas Code § 26–18–303(h)(1), concerning confidential records, privilege, and exceptions, is amended to read as follows:

<< AR ST § 26–18–303 >>

(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 3620. The introductory language of Arkansas Code § 26–18–303(i)(1), concerning confidential records, privilege, and exceptions, is amended to read as follows:

<< AR ST § 26–18–303 >>

(i)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration may disclose information from a return filed by a person, partnership, corporation, trust, or estate to any of the parties who signed the return:

SECTION 3621. Arkansas Code § 26–18–303(i)(2) and (3), concerning confidential records, privilege, and exceptions, are amended to read as follows:

<< AR ST § 26–18–303 >>

(2) The ~~Director~~ **Secretary** of the Department of Finance and Administration may also disclose all information concerning the collection activity related to a tax return to any party who signed the return.

(3) 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 for the release of information under this section.

SECTION 3622. Arkansas Code § 26–18–303(j)(1)(C), concerning confidential records, privilege, and exceptions, is amended to read as follows:

<< AR ST § 26–18–303 >>

(C) The sharing of documents and other information between the ~~Director~~ **Secretary** of the Department of Finance and Administration, the Attorney General, and the Director of Arkansas Tobacco Control will put the state in a

better position to prevent tobacco diversion and prevent cigarettes from being sold to youth and an already addicted adult population.

SECTION 3623. Arkansas Code § 26–18–303(j)(2), concerning confidential records, privilege, and exceptions, is amended to read as follows:

<< AR ST § 26–18–303 >>

(2) The ~~Director~~ **Secretary** of the Department of Finance and Administration may disclose documents and other information submitted by stamp deputies appointed under § 26–57–236 or those persons licensed or permitted under the terms of the Arkansas Tobacco Products Tax Act of 1977, § 26–57–201 et seq., to the Attorney General or the Director of Arkansas Tobacco Control upon the request of the Attorney General or the Director of Arkansas Tobacco Control.

SECTION 3624. Arkansas Code § 26–18–303(j)(4)(A), concerning confidential records, privilege, and exceptions, is amended to read as follows:

<< AR ST § 26–18–303 >>

(4)(A) The Attorney General and the Director of Arkansas Tobacco Control may use the documents and other information provided under this subsection by the ~~Director~~ **Secretary** of the Department of Finance and Administration in proceedings before any court.

SECTION 3625. Arkansas Code § 26–18–303(j)(4)(B)(i), concerning confidential records, privilege, and exceptions, is amended to read as follows:

<< AR ST § 26–18–303 >>

(B)(i) However, the documents and other information shall not be presented in court except with the approval of the court in which the action is pending and after adequate notice to the person who initially furnished the documents or other information to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3626. Arkansas Code § 26–18–312(a), concerning signatures on electronic forms, is amended to read as follows:

<< AR ST § 26–18–312 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall develop procedures for the acceptance of signatures on state tax returns or reports in digital or other electronic form.

SECTION 3627. Arkansas Code § 26–18–509 is amended to read as follows:

<< AR ST § 26–18–509 >>

26–18–509. Liability for payment of taxes — Falsification of sales transaction records.

A person who violates § 5-37-507 is liable to the state for a civil penalty equal to the total amount of the tax evaded, not collected, or not accounted for and paid over to the ~~Director~~ **Secretary** of the Department of Finance and Administration that results from the violation.

SECTION 3628. Arkansas Code § 26-18-701(a)(1), concerning the issuance of certificates of indebtedness and execution, is amended to read as follows:

<< AR ST § 26-18-701 >>

(a)(1)(A) If a taxpayer does not timely and properly pursue his or her remedies seeking relief from a decision of the ~~Director~~ **Secretary** of the Department of Finance and Administration and a final assessment is made against the taxpayer, or if the taxpayer fails to pay the deficiency assessed upon notice and demand, then the ~~director~~ **secretary** shall, as soon as practicable thereafter, issue to the circuit clerk of any county of the state a certificate of indebtedness certifying that the person named in the certificate of indebtedness is indebted to the state for the amount of the tax established by the ~~director~~ **secretary** as due.

(B)(i) If a taxpayer has a delinquent tax liability to the State of Arkansas of less than one thousand dollars (\$1,000), the ~~director~~ **secretary** may enter into an agreement with the taxpayer to allow the taxpayer to pay the delinquency in installments.

(ii) The ~~director~~ **secretary** may choose not to issue a certificate of indebtedness during the period of the installment agreement if he or she determines that it is in the best interest of the state.

(C)(i) If a taxpayer has a total delinquent individual income tax liability to the State of Arkansas of less than two thousand dollars (\$2,000), the ~~director~~ **secretary** may enter into an agreement with the taxpayer to allow the taxpayer to pay the delinquency in installments if:

(a) The installment agreement is for a period of twelve (12) months or less; and

(b) The installments are to be paid electronically.

(ii) The ~~director~~ **secretary** may choose not to issue a certificate of indebtedness during the period of the installment agreement if he or she determines that the issuance of a certificate of indebtedness is not in the best interest of the state.

SECTION 3629. Arkansas Code § 26-18-701(a)(3)(C)(iii), concerning the issuance of certificates of indebtedness and execution, is amended to read as follows:

<< AR ST § 26-18-701 >>

(iii) The ~~director~~ **secretary** shall not be required to file a release on a lien which has expired, and the provisions of § 26-18-808 dealing with failure to release liens are not applicable to this section.

SECTION 3630. Arkansas Code § 26-18-701(b), concerning the issuance of certificates of indebtedness and execution, is amended to read as follows:

<< AR ST § 26-18-701 >>

(b)(1) After entry of the certificate of indebtedness, the circuit clerk shall issue a writ of execution directed to the ~~director~~ **secretary**, authorizing the ~~director~~ **secretary** to levy upon and against all real and personal property of the taxpayer.

(2) The ~~director~~ **secretary** shall have all remedies and may take all proceedings for the collection of the tax which may be taken for the recovery of a judgment at law.

(3) The writ of execution shall be issued, served, and executed in the same manner as provided for in the issuance and service of executions rendered by the circuit courts of this state, except the ~~director~~ **secretary** shall act in the place of the county sheriffs.

(4) The ~~director~~ **secretary** shall have this authority for all liens either presently filed or filed after the passage of this act.

SECTION 3631. Arkansas Code § 26–18–701(c)(1), concerning the issuance of certificates of indebtedness and execution, is amended to read as follows:

<< AR ST § 26–18–701 >>

(c)(1) Nothing in this chapter shall preclude the ~~director~~ **secretary** from resorting to any other means provided by law for collecting delinquent taxes.

SECTION 3632. Arkansas Code § 26–18–701(c)(4), concerning the issuance of certificates of indebtedness and execution, is amended to read as follows:

<< AR ST § 26–18–701 >>

(4) In the name of the state, the ~~director~~ **secretary** may sue to the same effect and extent as for the enforcement of a right of action for debt.

SECTION 3633. Arkansas Code § 26–18–701(d)(1)(A), concerning the issuance of certificates of indebtedness and execution, is amended to read as follows:

<< AR ST § 26–18–701 >>

(d)(1)(A) In addition to the remedies provided in subsections (b) and (c) of this section, the ~~director~~ **secretary** may direct the circuit clerk to issue a writ of execution directed to the county sheriff of any county authorizing the county sheriff to levy upon and against all real and personal property of the taxpayer.

SECTION 3634. Arkansas Code § 26–18–701(d)(2)(B) and (C), concerning the issuance of certificates of indebtedness and execution, are amended to read as follows:

<< AR ST § 26–18–701 >>

(B) These fees shall be collected from the taxpayer by either the ~~director~~ **secretary** or the county sheriff in addition to the tax, penalties, and interest included in the certificate of indebtedness.

(C) If the county sheriff is unable after diligent effort to collect the tax, interest, penalties, and costs, the ~~director~~ **secretary** may pay such fees as are properly shown to be due to the circuit clerk and county sheriff.

SECTION 3635. Arkansas Code § 26–18–701(e), concerning the issuance of certificates of indebtedness and execution, is amended to read as follows:

<< AR ST § 26–18–701 >>

(e) The ~~director~~ **secretary** may contract with persons inside or outside the state to help the ~~director~~ **secretary** collect delinquencies of resident or nonresident taxpayers.

SECTION 3636. Arkansas Code § 26–18–705 is amended to read as follows:

<< AR ST § 26–18–705 >>

26–18–705. Settlement or compromise of liability controversies.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration may enter into an agreement to compound, settle, or compromise any controversy relating to a state tax or any admitted or established tax liability as to any tax collectible under any state law when:

- (1) The controversy is over the amount of tax due; or
- (2) The inability to pay results from the insolvency of the taxpayer.

(b) The ~~director~~ **secretary** may waive or remit the interest or penalty, or any portion of the interest or penalty, ordinarily accruing because of a taxpayer's failure to pay a state tax within the statutory period allowed for its payment:

- (1) If the taxpayer's failure to pay the tax is satisfactorily explained to the ~~director~~ **secretary**;
- (2) If the failure results from a mistake by the taxpayer of either the law or the facts subjecting him or her to such tax; or
- (3) If the inability to pay the interest or penalty results from the insolvency or bankruptcy of the taxpayer.

(c)(1) In settling or compromising any controversy relating to the liability of a person for any state tax for any taxable period, the ~~director~~ **secretary** may enter into a written closing agreement concerning the liability.

(2) When the closing agreement is signed by the ~~director~~ **secretary**, it shall be final and conclusive, and except upon a showing of fraud or misrepresentation of a material fact, no additional assessment or collection shall be made by the ~~director~~ **secretary**, and the taxpayer shall not institute any judicial proceeding to recover such liabilities as agreed to in the closing agreement.

(d) The ~~director~~ **secretary** shall promulgate rules and regulations establishing guidelines for determining whether a proposed offer in compromise is adequate and is acceptable to resolve a tax dispute.

SECTION 3637. Arkansas Code § 26–18–901 is amended to read as follows:

<< AR ST § 26–18–901 >>

26–18–901. Office of Problems Resolution and Tax Information.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall request the General Assembly to appropriate funds and create positions for an Office of Problems Resolution and Tax Information, which shall resolve

taxpayer problems directly and provide information to taxpayers concerning tax law. This office shall report directly to the ~~Administrative Assistant of Revenues~~ **secretary or his or her designee**.

(b) The ~~director~~ **secretary** shall have the authority to establish the duties of the office. The office shall give highest priority to reviewing taxpayer problems and taking prompt and appropriate action to resolve problems and respond to taxpayers.

SECTION 3638. Arkansas Code § 26–18–902(a), concerning the creation of the Tax Advisory Council, is amended to read as follows:

<< AR ST § 26–18–902 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall establish a Tax Advisory Council consisting of representatives of the Arkansas Bar Association, the Arkansas Society of Certified Public Accountants, the Arkansas Society of Public Accountants, the Office of Problems Resolution and Tax Information, other taxpayer-oriented groups, and other representatives of the Revenue Division of the Department of Finance and Administration.

SECTION 3639. Arkansas Code § 26–18–903 is amended to read as follows:

<< AR ST § 26–18–903 >>

26–18–903. Employee evaluation criteria.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall develop employee evaluation criteria requiring compliance with the Taxpayer Bill of Rights, § 26–18–801 et seq., and quality taxpayer assistance, which shall be included in the annual evaluation of each employee whose job responsibilities include taxpayer contact.

SECTION 3640. The introductory language of Arkansas Code § 26–18–904(a), concerning collection activity, erroneous action, and a claim for damages, is amended to read as follows:

<< AR ST § 26–18–904 >>

(a) A claim may be filed with the Department of Finance and Administration for any actual damages sustained as a result of any erroneous action taken in a collection activity. Each claimant applying for reimbursement shall file a claim in such form as may be prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration. In order for the claim to be granted, the claimant must establish that:

SECTION 3641. The introductory language of Arkansas Code § 26–18–1001(a), concerning business closure authority and notice, is amended to read as follows:

<< AR ST § 26–18–1001 >>

(a) In addition to all other remedies provided by law for the collection of unpaid taxes, the ~~Director~~ **Secretary** of the Department of Finance and Administration may close the business of a noncompliant taxpayer as defined by § 26–18–104, subject to the administrative and judicial appeal procedures in this subchapter, if the noncompliant taxpayer for three (3) times within any consecutive twenty-four-month period fails to either:

SECTION 3642. Arkansas Code § 26–18–1001(b)(1), concerning business closure authority and notice, is amended to read as follows:

<< AR ST § 26–18–1001 >>

(b)(1) The ~~director~~ **secretary** shall give notice to the noncompliant taxpayer that the third delinquency in reporting or remitting tax in any consecutive twenty-four-month period will result in the closure of the business.

SECTION 3643. Arkansas Code § 26–18–1001(c)(1), concerning business closure authority and notice, is amended to read as follows:

<< AR ST § 26–18–1001 >>

(c)(1) If the noncompliant taxpayer has a third delinquency in reporting or remitting tax in any consecutive twenty-four-month period after the issuance of the notice provided in subsection (b) of this section, the ~~director~~ **secretary** shall notify the noncompliant taxpayer by certified mail or by hand delivery that the business will be closed within five (5) business days from the date of the notice unless the noncompliant taxpayer makes arrangements with the ~~director~~ **secretary** to satisfy the tax delinquency.

SECTION 3644. Arkansas Code § 26–18–1001(d)(2), concerning business closure authority and notice, is amended to read as follows:

<< AR ST § 26–18–1001 >>

(2) Entering into a payment agreement approved by the ~~director~~ **secretary** to satisfy the tax delinquency.

SECTION 3645. Arkansas Code § 26–18–1001(e), concerning business closure authority and notice, is amended to read as follows:

<< AR ST § 26–18–1001 >>

(e) After written notice delivered to a lottery retailer by the United States Postal Service or by hand delivery, the ~~director~~ **secretary** may pursue a remedy under this subchapter against a lottery retailer as a noncompliant taxpayer upon receiving a referral from the Office of the Arkansas Lottery under § 23–115–605.

SECTION 3646. Arkansas Code § 26–18–1002(a), concerning administrative hearings, is amended to read as follows:

<< AR ST § 26–18–1002 >>

(a) A noncompliant taxpayer may request an administrative hearing concerning the decision of the ~~Director~~ **Secretary** of the Department of Finance and Administration to close the noncompliant taxpayer's business by following the procedures in this section.

SECTION 3647. Arkansas Code § 26–18–1002(c)(2), concerning administrative hearings, is amended to read as follows:

<< AR ST § 26–18–1002 >>

(2) The ~~director~~ **secretary** has the discretion to determine whether an administrative hearing at which testimony is to be presented will be conducted in person or by telephone.

SECTION 3648. Arkansas Code § 26–18–1002(d), concerning administrative hearings, is amended to read as follows:

<< AR ST § 26–18–1002 >>

(d) The administrative hearing will be conducted by a hearing officer appointed by the ~~director~~ **secretary** under § 26–18–405.

SECTION 3649. Arkansas Code § 26–18–1002(f), concerning administrative hearings, is amended to read as follows:

<< AR ST § 26–18–1002 >>

(f)(1) The hearing may be held in any city in which the Revenue Division of the Department of Finance and Administration maintains a field audit district office or in such other city as the ~~director~~ **secretary** may designate.

(2) The administrative hearing will be held within fourteen (14) calendar days of receipt by the ~~director~~ **secretary** of the request for hearing.

SECTION 3650. Arkansas Code § 26–18–1002(h)(2), concerning administrative hearings, is amended to read as follows:

<< AR ST § 26–18–1002 >>

(2) That the noncompliant taxpayer has entered into a written payment agreement, approved by the ~~director~~ **secretary**, to satisfy the tax delinquency.

SECTION 3651. Arkansas Code § 26–18–1002(j), concerning administrative hearings, is amended to read as follows:

<< AR ST § 26–18–1002 >>

(j) A decision of the hearing officer to sustain the ~~director's~~ **secretary's** decision to close the business of the noncompliant taxpayer is effective twenty (20) days after the date of the decision and, except as provided under § 26–18–1003, acts as an injunction prohibiting further operation of the business.

SECTION 3652. Arkansas Code § 26–18–1003(a)(1), concerning the definition of “administrative decision” under the laws regarding judicial relief, is amended to read as follows:

<< AR ST § 26–18–1003 >>

(1) “Administrative decision” means a decision issued under § 26–18–1002 to affirm the decision of the ~~Director~~ **Secretary** of the Department of Finance and Administration to close the business of a noncompliant taxpayer;

SECTION 3653. Arkansas Code § 26–18–1003(a)(3), concerning the definition of “business closure order” under the laws regarding judicial relief, is amended to read as follows:

<< AR ST § 26–18–1003 >>

(3) “Business closure order” means a notice of closure issued by the ~~director~~ **secretary** under § 26–18–1001.

SECTION 3654. Arkansas Code § 26–18–1003(c)(1)(B), concerning judicial relief, is amended to read as follows:

<< AR ST § 26–18–1003 >>

(B) An order of a circuit court to stay the effect of an administrative decision may be revoked if the ~~director~~ **secretary** provides proof that the taxpayer has failed to timely file returns for or make full payment of the taxes identified in § 26–18–1001(a) after the date suit is filed under this section.

SECTION 3655. Arkansas Code § 26–18–1003(c)(2), concerning judicial relief, is amended to read as follows:

<< AR ST § 26–18–1003 >>

(2) If a noncompliant taxpayer fails to obtain an order staying the effect of the administrative decision or if an order staying the effect of the administrative decision is later revoked, the ~~director~~ **secretary** shall follow the procedures in §§ 26–18–1004 and 26–18–1005 to enforce the closure of the business pending the outcome of the suit filed under this section.

SECTION 3656. Arkansas Code § 26–18–1003(d), concerning judicial relief, is amended to read as follows:

<< AR ST § 26–18–1003 >>

(d) The noncompliant taxpayer or the ~~director~~ **secretary** may file an appeal of the circuit court decision to the appropriate appellate court as provided by law.

SECTION 3657. The introductory language of Arkansas Code § 26–18–1004(a), concerning the procedures for business closure, is amended to read as follows:

<< AR ST § 26–18–1004 >>

(a) If a noncompliant taxpayer fails to timely seek administrative or judicial review of a business closure decision or if the business closure decision is affirmed after administrative or judicial review, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall affix a written notice to all entrances of the business that:

SECTION 3658. Arkansas Code § 26–18–1004(b), concerning the procedures for business closure, is amended to read as follows:

<< AR ST § 26–18–1004 >>

(b)(1) The ~~director~~ **secretary** may also lock or otherwise secure the business so that it may not be operated.

(2) However, if the business is located in the noncompliant taxpayer's home, the ~~director~~ **secretary** shall not lock or otherwise secure the business but may post the notice under subsection (a) of this section.

SECTION 3659. Arkansas Code § 26–18–1004(c) and (d), concerning the procedures for business closure, are amended to read as follows:

<< AR ST § 26–18–1004 >>

(c) The ~~director~~ **secretary** may request the assistance of the ~~Department~~ **Division** of Arkansas State Police or any state or local law enforcement official to post the notice or to secure the business as authorized in this section.

(d) Any taxpayer information disclosed by the ~~director~~ **secretary** under the procedures outlined in this section shall not be subject to the confidentiality provisions of § 26–18–303.

SECTION 3660. Arkansas Code § 26–18–1005(a), concerning the suspension of a business license, is amended to read as follows:

<< AR ST § 26–18–1005 >>

(a) After the decision to close the noncompliant taxpayer's business becomes final, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall contact the appropriate administrative body responsible for granting licenses to operate the business and report the closure of the business.

SECTION 3661. Arkansas Code § 26–18–1006 is amended to read as follows:

<< AR ST § 26–18–1006 >>

26–18–1006. Authority to promulgate rules.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules necessary for the enforcement of this subchapter.

SECTION 3662. Arkansas Code § 26–19–103 is amended to read as follows:

<< AR ST § 26–19–103 >>

26–19–103. Authority of director Secretary of the Department of Finance and Administration.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to require, and to contract for services necessary to implement, payment of taxes as specified in this subchapter by electronic funds transfer. Provided, however, that this subchapter shall not be construed to require the ~~director~~ **secretary** to contract for such services or implement a system for payment of any taxes by electronic funds transfer if the ~~director~~ **secretary** determines that it is fiscally unsound or administratively burdensome to do so.

SECTION 3663. The introductory language of Arkansas Code § 26–19–105(a)(1), concerning tax payments by a taxpayer, is amended to read as follows:

<< AR ST § 26–19–105 >>

(a)(1) If the ~~Director~~ **Secretary** of the Department of Finance and Administration determines that a taxpayer's monthly liability for the following taxes for any calendar year equals or exceeds twenty thousand dollars (\$20,000), the taxpayer shall pay any tax due by electronic funds transfer:

SECTION 3664. The introductory language of Arkansas Code § 26–19–105(a)(2), concerning tax payments by a taxpayer, is amended to read as follows:

<< AR ST § 26–19–105 >>

(2) If the ~~director~~ **secretary** determines that a taxpayer's monthly liability for the following taxes for any calendar year equals or exceeds twenty thousand dollars (\$20,000), the taxpayer shall pay the taxes due by electronic funds transfer:

SECTION 3665. Arkansas Code § 26–19–105(c)(2)(C), concerning tax payments by a taxpayer, is amended to read as follows:

<< AR ST § 26–19–105 >>

(C) The annual withholding return shall be made on such a form and shall include such information as the ~~director~~ **secretary** prescribes.

SECTION 3666. Arkansas Code § 26–19–106(a), concerning tax payments by corporations, is amended to read as follows:

<< AR ST § 26–19–106 >>

(a) If the ~~Director~~ **Secretary** of the Department of Finance and Administration determines that a corporation's estimated quarterly state income tax liability under § 26–51–911 et seq. equals or exceeds twenty thousand dollars (\$20,000), the corporation shall pay the quarterly income taxes due by electronic funds transfer.

SECTION 3667. Arkansas Code § 26–19–106(c)(1), concerning tax payments by corporations, is amended to read as follows:

<< AR ST § 26–19–106 >>

(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 3668. Arkansas Code § 26–19–107(c)(1)(B), concerning penalties in regards to electronic funds, is amended to read as follows:

<< AR ST § 26–19–107 >>

(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 3669. Arkansas Code § 26–19–107(c)(2)(B), concerning penalties in regards to electronic funds, is amended to read as follows:

<< AR ST § 26–19–107 >>

(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 3670. Arkansas Code § 26–19–107(c)(3)(B), concerning penalties in regards to electronic funds, is amended to read as follows:

<< AR ST § 26–19–107 >>

(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 3671. Arkansas Code § 26–19–108 is amended to read as follows:

<< AR ST § 26–19–108 >>

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 3672. Arkansas Code § 26–20–102(4), concerning the definition of “director” under the Uniform Sales and Use Tax Administration Act, is repealed.

<< AR ST § 26–20–102 >>

(4) “Director” means the ~~Director~~ of the Department of Finance and Administration;

SECTION 3673. Arkansas Code § 26–20–104 is amended to read as follows:

<< AR ST § 26–20–104 >>

26–20–104. Authority to enter agreement.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized and directed to enter into the Streamlined Sales and Use Tax Agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

(b) In furtherance of the agreement, the ~~director~~ **secretary** is authorized to act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

(c) The ~~director~~ **secretary** is further authorized to take other actions reasonably required to implement the provisions set forth in this chapter.

(d) Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

(e) The ~~director~~ **secretary** or his or her designee is authorized to represent this state before the other states that are signatories to the agreement.

SECTION 3674. The introductory language of Arkansas Code § 26–20–106, concerning the requirements for the Director of the Department of Finance and Administration to enter into an agreement, is amended to read as follows:

<< AR ST § 26–20–106 >>

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall not enter into the agreement unless it requires each state to abide by the following requirements:

SECTION 3675. Arkansas Code § 26–21–107(b)(1), concerning the administration of use-based exemptions, is amended to read as follows:

<< AR ST § 26–21–107 >>

(b)(1) A seller that follows the exemption requirements as prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall be relieved from any tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption.

SECTION 3676. The introductory language of Arkansas Code § 26–21–108(a), concerning returns and remittance of funds, is amended to read as follows:

<< AR ST § 26–21–108 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules to provide:

SECTION 3677. Arkansas Code § 26–21–110(a), concerning amnesty for unpaid sales or use tax upon registration, is amended to read as follows:

<< AR ST § 26–21–110 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide amnesty for uncollected or unpaid sales or use tax to a seller that registers to pay or to collect and remit applicable sales or use tax on sales made to purchasers in the state in accordance with the terms of the agreement, provided that the seller was not registered to collect sales and use tax in the State of Arkansas in the twelve-month period preceding the effective date of the state's participation in the agreement.

SECTION 3678. The introductory language of Arkansas Code § 26–21–110(g), concerning amnesty for unpaid sales or use tax upon registration, is amended to read as follows:

<< AR ST § 26–21–110 >>

(g) The ~~director~~ **secretary** shall also provide amnesty to a seller for uncollected or unpaid sales or use tax if:

SECTION 3679. The introductory language of Arkansas Code § 26–21–111(a), concerning the certification and payment of service providers and automated systems, is amended to read as follows:

<< AR ST § 26–21–111 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration may:

SECTION 3680. Arkansas Code § 26–21–113 is amended to read as follows:

<< AR ST § 26–21–113 >>

26–21–113. Promulgation of rules.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules and develop forms to implement the provisions of this chapter.

SECTION 3681. Arkansas Code § 26–21–114(4), concerning the governing board under the Streamlined Sales Tax Administrative Act, is amended to read as follows:

<< AR ST § 26–21–114 >>

(4) The ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her designee.

SECTION 3682. Arkansas Code § 26–25–107 is amended to read as follows:

<< AR ST § 26–25–107 >>

26–25–107. Ordinance.

(a)(1) Every city or county that adopts an ordinance levying a local sales and use tax which is collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall submit the ordinance to the ~~director~~ **secretary** at least forty-five (45) days prior to the election on the levy.

(2) The ~~director~~ **secretary** shall review the ordinance to determine if the proposed levy complies with all statutory requirements and limitations, including a separate levy of the sales and use tax, and an authorized sales or use tax rate.

(b)(1) The ~~director~~ **secretary** shall approve or reject the ordinance and provide written notice to the city or county within fifteen (15) days of receipt of the ordinance.

(2)(A) If the ordinance is rejected, the ~~director~~ **secretary** shall note the defects.

(B) If the ordinance is rejected and the city or county fails to correct the noted defects, any tax levied by the defective ordinance shall not be collected by the ~~director~~ **secretary**.

(c) Whenever a special election is called for the purpose of submitting an initiated measure which levies a city or county sales and use tax to be collected by the ~~director~~ **secretary**, the county board of election commissioners shall submit the initiated measure to the ~~director~~ **secretary** and the provisions of subsections (a) and (b) of this section shall apply.

(d) No ordinance or initiated measure shall be deemed invalid because of the failure to submit the ordinance or measure to the ~~director~~ **secretary** or to use a sample form, and such failure shall not constitute a cause of action to invalidate an ordinance or initiated measure.

SECTION 3683. Arkansas Code § 26–26–502 is amended to read as follows:

<< AR ST § 26–26–502 >>

26–26–502. Deputy county assessors.

The county assessor in each county, with the approval of the ~~Director~~ **Secretary** of the Department of Finance and Administration, is authorized to deputize one (1) or more full-time or part-time clerks or other employees in the county revenue office and to authorize these deputies to assess personal property or to list personal property for assessment for ad valorem taxes.

SECTION 3684. Arkansas Code § 26–26–706(a), concerning a list of motor vehicle licenses, is amended to read as follows:

<< AR ST § 26–26–706 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall institute a system in which the county assessor and the county collector shall notify the ~~director~~ **secretary** that a vehicle owner has assessed a vehicle and has paid all personal property taxes that were due by the preceding October 15. Upon receipt of the notification, the ~~director~~ **secretary** shall renew the vehicle license.

SECTION 3685. Arkansas Code § 26–26–1604(a)(2), concerning delinquency in a filing statement, is amended to read as follows:

<< AR ST § 26–26–1604 >>

(2) The Tax Division of the Arkansas Public Service Commission shall advise the company in writing of the delinquency, and, thereafter, should the company fail to file the statement before May 1, the division shall immediately report the delinquency to the appropriate commission, and should delinquency exist on May 31 of the assessment year, the commission shall certify the delinquency to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3686. Arkansas Code § 26–26–1604(b), concerning delinquency in a filing statement, is amended to read as follows:

<< AR ST § 26–26–1604 >>

(b)(1) By proper action in the name of the state, the ~~director~~ **secretary** may recover from any delinquent company a penalty not to exceed one hundred dollars (\$100) for each day's delinquency, beginning as of March 1 of the assessment year.

(2) In the alternative, the ~~director~~ **secretary** may petition the commission for revocation of the certificate or permit of authority issued to the delinquent company to operate in the State of Arkansas.

SECTION 3687. Arkansas Code § 26–26–1610(b)(2)(A), concerning the notice of assessment and review of funds, is amended to read as follows:

<< AR ST § 26–26–1610 >>

(2)(A) All hearings on the petition shall be had before the appropriate commission or its agent on or before November 1 after assessment notice has been given. However, hearings on petitions for review of assessments of bus lines, motor carriers, airlines, water transportation companies, and private car companies, which assessments are certified to the ~~Director~~ **Secretary** of the Department of Finance and Administration for collection of tax, shall be to the appropriate commission or its agent, on or before December 31 of the assessing year.

SECTION 3688. Arkansas Code § 26–26–1614 is amended to read as follows:

<< AR ST § 26–26–1614 >>

26–26–1614. Levy and collection of taxes.

(a)(1) Having ascertained and fixed the taxable value of the tangible and intangible property used or held for use in the operation of each intercounty bus line, intercounty motor freight, airline, or water transportation company, as required by law, the Tax Division of the Arkansas Public Service Commission shall levy and extend against each valuation the average rate of ad valorem levy prevailing throughout this state for the assessment year, and then ten (10) days before the due date, the division shall certify the tax to the ~~Director~~ **Secretary** of the Department of Finance and Administration for collection.

(2) The ~~director~~ **secretary** shall immediately forward by first-class mail a notice showing the assessed valuation, applicable rate of levy, the amount of tax charged, and the due date of the tax charged to each company against which a tax has been extended and so certified.

(b)(1) If the taxes are not paid on or before the date on which ad valorem taxes or any part of ad valorem taxes on personal property become delinquent, the ~~director~~ **secretary** shall add a penalty of ten percent (10%) and mail a statement of the tax and penalty to each person, company, or corporation so delinquent.

(2)(A) If the tax and penalty are not paid on or before the date on which a county collector may collect taxes by distraint, in lieu of the ten percent (10%) penalty, the ~~director~~ **secretary** shall add to the tax a penalty of twenty-five percent (25%).

(B) The statement of tax and ten percent (10%) penalty from the ~~director~~ **secretary** shall warn that if the tax and penalty are not paid within the time stated, in lieu of the ten percent (10%) penalty, a penalty of twenty-five percent (25%) will be added.

(c)(1) For the purpose of collecting the taxes and penalties, in addition to the powers vested in the ~~director~~ **secretary** for the collection of taxes, the ~~director~~ **secretary** shall have all the powers vested in county collectors for the purpose of collecting delinquent personal property taxes.

(2) The ~~director~~ **secretary** may petition the Arkansas Public Service Commission for revocation of the certificate or permit of authority issued to the delinquent company to operate in the State of Arkansas.

SECTION 3689. Arkansas Code § 26–26–1706 is amended to read as follows:

<< AR ST § 26–26–1706 >>

26–26–1706. Levy of tax, collection, and penalty for delinquency.

(a) The Tax Division of the Arkansas Public Service Commission, having ascertained and fixed the assessed valuation of the cars of each private car company as provided in § 26–26–1705, shall levy and extend against each valuation the average rate of ad valorem levy prevailing throughout the state for the respective assessment year, this rate to be determined as

provided by § 26–26–1615, whereupon, the division, ten (10) days before due date, shall certify the tax so extended to the ~~Director~~ **Secretary** of the Department of Finance and Administration for collection.

(b) The ~~director~~ **secretary** shall immediately forward by first-class mail to each private car company against which a tax has been extended and so certified a notice showing the assessed valuation, the applicable rate of levy, the amount of tax charged, and the due date thereof.

(c)(1) If the taxes are not paid on or before the date on which taxes, ad valorem, or any part thereof, on personal property become delinquent, the ~~director~~ **secretary** shall add a penalty of ten percent (10%) and mail to each company so delinquent a statement of the tax and penalty.

(2)(A) If the tax and penalty are not paid on or before the date on which county collectors are authorized to collect taxes by distraint, the ~~director~~ **secretary** shall, in lieu of the ten percent (10%) penalty, add to the tax a penalty of twenty-five percent (25%) and certify the tax and penalty to the Attorney General for collection.

(B) The ~~director's~~ **secretary's** statement of tax and ten percent (10%) penalty shall warn that if the tax and penalty are not paid within the time therein stated, in lieu of the ten percent (10%) penalty, a penalty of twenty-five percent (25%) will be added, and the tax and penalty shall be certified to the Attorney General for collection.

(d) For the purpose of collecting these taxes and penalties, the ~~director~~ **secretary** or the Attorney General, in addition to the powers in them vested for the collection of taxes, shall have all the powers vested in county collectors for the purpose of collecting delinquent personal property taxes.

SECTION 3690. Arkansas Code § 26–34–109(d), concerning common carriers and not carrying goods on which taxes are not paid, is amended to read as follows:

<< AR ST § 26–34–109 >>

(d) All taxes due under this section may be recovered by a civil action brought at the instance of the Attorney General in the name of the ~~Director~~ **Secretary** of the Department of Finance and Administration of the State of Arkansas.

SECTION 3691. Arkansas Code § 26–36–306 is amended to read as follows:

<< AR ST § 26–36–306 >>

26–36–306. Minimum sum collectible.

A claimant agency shall not be allowed to effect final setoff and collect debts through use of the remedy established under this subchapter unless the debt is at least twenty dollars (\$20.00). However, the Revenue Division of the Department of Finance and Administration may set off any lesser sum, regardless of this provision, which the ~~Director~~ **Secretary** of the Department of Finance and Administration shall establish as economically justifiable.

SECTION 3692. Arkansas Code § 26–36–309(b)(2), concerning the notification of a debtor, is amended to read as follows:

<< AR ST § 26–36–309 >>

(2) The notification form shall be approved by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3693. Arkansas Code § 26–36–315(b)(1), concerning joint refunds, is amended to read as follows:

<< AR ST § 26–36–315 >>

(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 3694. Arkansas Code § 26–36–315(c)(2), concerning joint refunds, is amended to read as follows:

<< AR ST § 26–36–315 >>

(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 3695. Arkansas Code § 26–36–315(d), concerning joint refunds, is amended to read as follows:

<< AR ST § 26–36–315 >>

(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 3696. Arkansas Code § 26–36–320, is amended to read as follows:

<< AR ST § 26–36–320 >>

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 3697. Arkansas Code § 26–36–321(a), concerning a setoff for debt to the Internal Revenue Service, is amended to read as follows:

<< AR ST § 26–36–321 >>

(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.

SECTION 3698. 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:

<< AR ST § 26–50–102 >>

(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 3699. Arkansas Code § 26–50–102(b), concerning the requirement of a wholesaler to furnish a list of retailers, is amended to read as follows:

<< AR ST § 26–50–102 >>

(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 3700. Arkansas Code § 26–51–102(2), concerning the definition of “director” under the laws governing income taxes, is repealed.

<< AR ST § 26–51–102 >>

(2) “~~Director~~” means the ~~Director~~ of the ~~Department of Finance and Administration~~;

SECTION 3701. Arkansas Code § 26–51–104 is amended to read as follows:

<< AR ST § 26–51–104 >>

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 3702. Arkansas Code § 26–51–105 is amended to read as follows:

<< AR ST § 26–51–105 >>

26–51–105. Income tax director, officers, agents, and employees.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration, with the approval of the Governor, may appoint and remove a person to be known as the “**Income Tax Director**” who, under the ~~Director~~ **Secretary** of the Department of Finance and Administration's supervision, shall have the direction and control of the assessment and collection of the taxes imposed by the Income Tax Act of 1929.

(b) The Income Tax Director, with the approval of the Governor, may appoint such other officers, agents, deputies, clerks, and employees as he or she may deem necessary, such appointees to have the duties and powers which the ~~Director~~ **Secretary** of the Department of Finance and Administration may from time to time prescribe.

(c) The salaries of all such officers, agents, and employees shall be fixed by the ~~Director~~ **Secretary** of the Department of Finance and Administration not to exceed the amounts appropriated by the General Assembly; and the ~~Director~~ **Secretary** of the Department of Finance and Administration and such officers, agents, and employees shall be allowed

reasonable and necessary traveling and other expenses incurred in the performance of their duties not to exceed the amounts appropriated by the General Assembly.

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration may require such of the officers, agents, and employees as he or she may designate to give bond for the faithful performance of their duties and in such sum and with such sureties as he or she may determine, and all premiums on these bonds shall be paid by the ~~Director~~ **Secretary** of the Department of Finance and Administration out of moneys appropriated for the purposes of the Income Tax Act of 1929.

SECTION 3703. Arkansas Code § 26–51–106 is amended to read as follows:

<< AR ST § 26–51–106 >>

26–51–106. Publication of statistics.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall prepare and publish annually statistics reasonably available, with respect to the operation of the Income Tax Act of 1929, including amounts collected, classifications of taxpayers, income, exemptions, and such other facts as are deemed pertinent and valuable.

SECTION 3704. Arkansas Code § 26–51–201(d)(1), concerning taxes for individuals, trusts, and estates, is amended to read as follows:

<< AR ST § 26–51–201 >>

(d)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall prescribe annually a table which shall apply in lieu of the table contained in subsection (a) of this section with respect to each succeeding taxable year. The ~~director~~ **secretary** shall increase the minimum and maximum dollar amounts for each rate bracket, rounding to the nearest one hundred dollars (\$100), for which a tax is imposed under the table by the cost-of-living adjustment for each calendar year and by not changing the rate applicable to any rate bracket as adjusted.

SECTION 3705. Arkansas Code § 26–51–201(d)(3), concerning taxes for individuals, trusts, and estates, is amended to read as follows:

<< AR ST § 26–51–201 >>

(3) The new tables, as adjusted annually, shall be used by the ~~director~~ **secretary** in preparing the income tax withholding tables pursuant to § 26–51–907.

SECTION 3706. The introductory language of Arkansas Code § 26–51–201(e), concerning taxes for individuals, trusts, and estates, is amended to read as follows:

<< AR ST § 26–51–201 >>

(e) If the ~~director~~ **secretary** determines that federal law authorizes the state to collect sales and use tax from sellers that do not have a physical presence in the state, then after the first twelve (12) months of collecting sales and use tax from sellers that do not have a physical presence in the state, the ~~director~~ **secretary** shall:

SECTION 3707. Arkansas Code § 26–51–202(e)(3)(B), concerning taxes for nonresidents, is amended to read as follows:

<< AR ST § 26-51-202 >>

(B) Likewise, the provisions of subdivision (e)(1) of this section shall not apply to corporate partners of an investment partnership except as provided by regulations adopted by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3708. Arkansas Code § 26-51-206(c), concerning exceptions to commercial ventures by churches, is amended to read as follows:

<< AR ST § 26-51-206 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to promulgate reasonable rules and regulations to carry out the provisions of this section.

SECTION 3709. Arkansas Code § 26-51-401(b), concerning the tax year and accounting methods, is amended to read as follows:

<< AR ST § 26-51-401 >>

(b) A taxpayer must provide to the ~~Director~~ **Secretary** of the Department of Finance and Administration a copy of any certification or approval from the federal Internal Revenue Service authorizing the taxpayer to change his or her accounting method.

SECTION 3710. Arkansas Code § 26-51-402(b), concerning the tax year and a basis for determining liability, is amended to read as follows:

<< AR ST § 26-51-402 >>

(b) A taxpayer must provide to the ~~Director~~ **Secretary** of the Department of Finance and Administration a copy of any certification or approval from the federal Internal Revenue Service authorizing the taxpayer to change his or her income year.

SECTION 3711. Arkansas Code § 26-51-403(c)(2), concerning income in regards to taxes, is amended to read as follows:

<< AR ST § 26-51-403 >>

(2) If no such method of accounting has been employed or if the method employed does not clearly reflect the income, the computation shall be made upon such basis and in such manner as in the opinion of the ~~Director~~ **Secretary** of the Department of Finance and Administration does clearly reflect the income.

SECTION 3712. Arkansas Code § 26-51-404(b)(7)(B), concerning gross income, is amended to read as follows:

<< AR ST § 26-51-404 >>

(B) When books of account do not clearly and accurately reflect the income earned from sources without the state, the Arkansas income shall be determined by processes or formulas of general apportionment prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration and approved by the Governor;

SECTION 3713. Arkansas Code § 26–51–409(c)(1), concerning the adoption of Federal Subchapter S, is amended to read as follows:

<< AR ST § 26–51–409 >>

(c)(1) However, all nonresident shareholders of S corporations receiving a prorated share of income, loss, deduction, or credit pursuant to the provisions of this section must file a properly executed state income tax return with the ~~director~~ **Secretary of the Department of Finance and Administration** and remit the applicable state income tax due.

SECTION 3714. Arkansas Code § 26–51–410 is amended to read as follows:

<< AR ST § 26–51–410 >>

26–51–410. Inventory.

Whenever, in the opinion of the ~~Director~~ **Secretary** of the Department of Finance and Administration, the use of inventories is necessary in order to clearly determine the income of any taxpayer, inventories shall be taken by the taxpayer, upon such basis as the ~~director~~ **secretary** may prescribe, conforming as nearly as may be possible to the best accounting practice in the trade or business and most clearly reflecting the income.

SECTION 3715. Arkansas Code § 26–51–411(a)(2)(B), concerning gains, losses, and sales of property, is amended to read as follows:

<< AR ST § 26–51–411 >>

(B) If the facts necessary to determine such basis are unknown to the donee, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall use the assessed valuation of the property;

SECTION 3716. Arkansas Code § 26–51–418(c), concerning deductions for disabled children, is amended to read as follows:

<< AR ST § 26–51–418 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration may adopt appropriate rules and regulations to carry out the purpose and intent of this section and to prevent abuse of the deduction provided for in this section.

SECTION 3717. Arkansas Code § 26–51–423(a)(3), concerning deductions and expenses, is amended to read as follows:

<< AR ST § 26–51–423 >>

(3) Travel Expenses. In determining travel expenses deductible as a business expense in computing net income as provided under subdivision (a)(1) of this section, the deduction for vehicle miles shall be determined by the ~~Director~~ **Secretary** of the Department of Finance and Administration under his or her regulatory authority in § 26–18–301; and

SECTION 3718. The introductory language of Arkansas Code § 26-51-423(g)(1)(C), concerning deductions and expenses, is amended to read as follows:

<< AR ST § 26-51-423 >>

(C) The taxpayer and the ~~director~~ **secretary** enter into a written agreement prior to the due date of the taxpayer's Arkansas income tax return:

SECTION 3719. The introductory language of Arkansas Code § 26-51-447(b), concerning deductions for tuition at post-secondary educational institutions, is amended to read as follows:

<< AR ST § 26-51-447 >>

(b) On or before November 30, 1998, of each year thereafter, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall determine the weighted average tuition of post-secondary institutions of each of the following classifications:

SECTION 3720. Arkansas Code § 26-51-457(c), concerning a claim of right, is amended to read as follows:

<< AR ST § 26-51-457 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules to administer this section.

SECTION 3721. Arkansas Code § 26-51-458(d), concerning tax deductions for volunteer firefighters, is amended to read as follows:

<< AR ST § 26-51-458 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules to implement this section.

SECTION 3722. Arkansas Code § 26-51-459(d), concerning a teacher's classroom investment deductions, is amended to read as follows:

<< AR ST § 26-51-459 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules to implement this section, including without limitation a form for a taxpayer to use in claiming the deduction provided for under this section.

SECTION 3723. Arkansas Code § 26-51-501(a)(2)(A)(ii), concerning personal tax credits, is amended to read as follows:

<< AR ST § 26-51-501 >>

(ii) Subdivision (a)(2)(A)(i) of this section shall apply if the ~~Director~~ **Secretary** of the Department of Finance and Administration continues to provide a tax return on which a husband and wife can elect to file jointly or separately on the same return.

SECTION 3724. Arkansas Code § 26-51-501(e)(1)(A), concerning personal tax credits, is amended to read as follows:

<< AR ST § 26-51-501 >>

(e)(1)(A) Not later than July 15 of each calendar year, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall increase the adjusted individual credit and adjusted joint credit by the cost-of-living adjustment for that current calendar year, rounding each amount to the nearest dollar.

SECTION 3725. Arkansas Code § 26-51-501(e)(4), concerning personal tax credits, is amended to read as follows:

<< AR ST § 26-51-501 >>

(4) The ~~director~~ **secretary** shall not increase the adjusted credit for any calendar year unless the conditions of subsection (f) of this section are met.

SECTION 3726. Arkansas Code § 26-51-504(b), concerning income from sources outside of Arkansas, is amended to read as follows:

<< AR ST § 26-51-504 >>

(b) Before a resident of Arkansas may claim the credit allowed under this section, he or she shall file with his or her income tax return any such additional information as the Director of the State Income Tax Division or the ~~Director~~ **Secretary** of the Department of Finance and Administration may by regulation require showing in detail the amount of gross and net income derived from property owned or business transacted without this state, together with the amount of tax actually owed on the income to another state or territory.

SECTION 3727. Arkansas Code § 26-51-513(a), concerning the Arkansas historic rehabilitation income tax credit, is amended to read as follows:

<< AR ST § 26-51-513 >>

(a) In addition to any income tax credit not related to the same eligible property for which a taxpayer qualifies, the taxpayer is allowed an income tax credit for the amount of the Arkansas historic rehabilitation income tax credit allowed by the certification of completion issued by the ~~Department of~~ **Division Arkansas Heritage of the Department of Parks, Heritage, and Tourism** under the Arkansas Historic Rehabilitation Income Tax Credit Act, § 26-51-2201 et seq.

SECTION 3728. Arkansas Code § 26-51-513(d), concerning the Arkansas historic rehabilitation income tax credit, is amended to read as follows:

<< AR ST § 26-51-513 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules to implement this section.

SECTION 3729. Arkansas Code § 26–51–712 is amended to read as follows:

<< AR ST § 26–51–712 >>

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 3730. 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:

<< AR ST § 26–51–718 >>

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 3731. The introductory language of Arkansas Code § 26–51–801(a), concerning tax returns by individuals, is amended to read as follows:

<< AR ST § 26–51–801 >>

(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 3732. Arkansas Code § 26–51–801(e), concerning tax returns by individuals, is amended to read as follows:

<< AR ST § 26–51–801 >>

(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 withholding tax.

SECTION 3733. The introductory language of Arkansas Code § 26–51–802(c)(3), concerning partnership tax returns, is amended to read as follows:

<< AR ST § 26–51–802 >>

(3) If the apportionment of income by a partnership having income from both within and without Arkansas does not fairly represent the extent of the partnership's business activity in this state, the partnership 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 3734. Arkansas Code § 26–51–805(d)(1), concerning consolidated corporate returns, is amended to read as follows:

<< AR ST § 26–51–805 >>

(d)(1) The election to file an Arkansas consolidated corporate income tax return for any income year shall require the filing of consolidated corporate income tax returns for all subsequent income years so long as the individual corporations remain members of the affiliated group unless the ~~Director~~ **Secretary** of the Department of Finance and Administration consents to the filing of separate returns by any members of the affiliated group.

SECTION 3735. Arkansas Code § 26–51–805(e), concerning consolidated corporate returns, is amended to read as follows:

<< AR ST § 26–51–805 >>

(e) In any case of two (2) or more corporations, whether or not affiliated, owned, or controlled directly or indirectly by the same interests, the ~~director~~ **secretary** may distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among such corporations if he or she determines that the distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income to any such corporation. This subsection is based upon the concept of 26 U.S.C. § 482 as of January 1, 1989, as that section applies to corporations.

SECTION 3736. Arkansas Code § 26–51–806(a)(1), concerning the time, place, and forms for filing tax returns, is amended to read as follows:

<< AR ST § 26–51–806 >>

(a)(1) Returns shall be in the form the ~~Director~~ **Secretary** of the Department of Finance and Administration prescribes and shall be filed with the ~~director's~~ **secretary's** office at Little Rock.

SECTION 3737. Arkansas Code § 26–51–806(b), concerning the time, place, and forms for filing tax returns, is amended to read as follows:

<< AR ST § 26–51–806 >>

(b)(1) The ~~director~~ **secretary** shall cause to be prepared blank forms for the returns and shall cause them to be furnished upon application, but failure to receive or secure the forms shall not relieve any taxpayer from the obligation of making any return required by the Income Tax Act of 1929, § 26–51–101 et seq.

(2) As far as possible and practicable for filing returns for income tax, the ~~director~~ **secretary** shall use the same form of blanks as is used by the United States down to the net income part of the form.

SECTION 3738. Arkansas Code § 26–51–807(b)(1), concerning the filing of returns and extensions of time, is amended to read as follows:

<< AR ST § 26–51–807 >>

(b)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall assess the taxpayer interest at the rate of ten percent (10%) per annum on the amount of tax finally determined to be due.

SECTION 3739. Arkansas Code § 26–51–807(c) and (d), concerning the filing of returns and extensions of time, are amended to read as follows:

<< AR ST § 26–51–807 >>

(c) The ~~director~~ **secretary** may grant a taxpayer's written request to extend the time for filing a corporation income tax return for a period of time not to exceed sixty (60) days in addition to the extensions provided in subsection (a) of this section that correspond to the extensions for filing a federal return.

(d) The ~~director~~ **secretary** may promulgate regulations granting automatic extensions of time to file income tax returns and information returns without the taxpayer being required to submit a written application, a copy of the federal request for extension, or a copy of the document granting the federal extension if the ~~director~~ **secretary** determines that such requirements are unnecessary for the administration of the income tax laws.

SECTION 3740. Arkansas Code § 26–51–808(a) and (b), concerning the failure to file return or to include income and return or supplemental return, are amended to read as follows:

<< AR ST § 26–51–808 >>

(a) If the ~~Director~~ **Secretary** of the Department of Finance and Administration shall be of the opinion that any taxpayer has failed to file a return or failed to include in a return filed, either intentionally or through error, items of taxable income, the ~~director~~ **secretary** may require from the taxpayer a return or a supplementary return, under oath, in such form as he or she shall prescribe, of all the items of income which the taxpayer received during the year for which the return is made, whether or not taxable under the provisions of the Income Tax Act of 1929.

(b) If from a supplementary return or otherwise, the ~~Director~~ **Secretary** of the Department of Finance and Administration finds that any items of income taxable under the Income Tax Act of 1929 have been omitted from the original return, he or she may require the items so omitted to be disclosed to him or her, under oath of the taxpayer, and to be added to the original return.

SECTION 3741. Arkansas Code § 26–51–809 is amended to read as follows:

<< AR ST § 26–51–809 >>

26–51–809. Receipts for taxes.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall give to any person making any payment a full written or printed receipt stating the amount paid and the particular account for which the payment was made and show for which installment it is paid.

SECTION 3742. Arkansas Code § 26–51–810(a), concerning forms provided to tax practitioners, is amended to read as follows:

<< AR ST § 26–51–810 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration may impose a postage fee sufficient to defray the cost of postage for mailing out tax forms to tax practitioners.

SECTION 3743. Arkansas Code § 26–51–811(a), concerning information at the source as to recipients of income, is amended to read as follows:

<< AR ST § 26–51–811 >>

(a)(1) Every individual, partnership, limited liability company, corporation, joint-stock company or association, or insurance company, being a resident or having a place of business in this state; members of a partnership or employees in whatever capacity acting, including lessees or mortgagees, of real or personal property; members or managers of limited liability companies or employees in whatever capacity acting; fiduciaries; employers and all officers and employees of this state, or of any political subdivision of this state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income amounting to two thousand five hundred dollars (\$2,500) or over, paid or payable during any year to any taxpayer shall make complete returns under oath to the ~~Director~~ **Secretary** of the Department of Finance and Administration, under such regulations and in such form and manner and to such extent as may be prescribed by the ~~director~~ **secretary** with the approval of the Governor.

(2) Unless the income is so reported, the ~~director~~ **secretary** may disallow such payments as deductions or credits in computing the tax of the payer.

SECTION 3744. Arkansas Code § 26–51–812(a) and (b), concerning the withholding of taxes at the source, are amended to read as follows:

<< AR ST § 26–51–812 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration, whenever he or she deems it necessary to ensure compliance with the provisions of the Income Tax Act of 1929, may, under rules and regulations prescribed by him or her, require any individual, partnership, limited liability company, corporation, joint-stock company, or association, including lessees or mortgagors and employees of the state or of any political subdivision of the state having control, receipt, custody, disposal, or payment of interest, other than interest coupons payable to bearer, rent, salaries, wages, premiums, compensation, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income paid or payable to any taxpayer, to deduct and withhold the tax due from the taxpayer and make return thereof and pay the tax to the ~~director~~ **secretary**.

(b)(1) Upon the giving of notice by the ~~director~~ **secretary** to the fiduciary of an estate or trust that the taxes due under the Income Tax Act of 1929 from the grantor or beneficiary of an estate or trust on income of the estate or trust, which is taxable to the grantor or beneficiary under the provisions of § 26–51–201, have not been paid, the fiduciary shall withhold the amount of the taxes from any payments or distribution due or to become due from the estate or trust to the grantor or beneficiary and transmit the amount so withheld to the ~~director~~ **secretary**.

(2) The notice required in this section is to be served on the fiduciary or other person named above by registered mail, the letter to be directed to the last known address of the fiduciary or other person so named above, as the address appears in the records of the ~~director~~ **secretary**.

(3) Any person failing or refusing to deduct and withhold the tax due from any taxpayer as required by the ~~director~~ **secretary** pursuant to this section shall be personally liable for such tax, and the ~~director~~ **secretary** may proceed against him or her as provided for in § 27 [repealed] of the Income Tax Act of 1929.

SECTION 3745. Arkansas Code § 26–51–813(b) and (c), concerning reports, returns, confidentiality, and exceptions in regards to tax returns, are amended to read as follows:

<< AR ST § 26–51–813 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration may furnish a copy of any taxpayer's return to any official of the United States or of any state having duties to perform in respect to the assessment or collection of any tax imposed upon or measured by income if the taxpayer is required by the laws of the United States or of the state to make a return in the United States or that state and if the laws of the United States or of the state provide substantially for the same secrecy in respect to the information revealed by the taxpayer's return as is provided by Arkansas laws.

(c) The ~~director~~ **secretary** and all other public officials and employees shall keep and maintain the same secrecy in respect to any information furnished by any department, commission, or official of the United States or of any other state in respect to the income of any person as is required by the Income Tax Act of 1929 in respect to information concerning the affairs of the taxpayer under the Income Tax Act of 1929.

SECTION 3746. Arkansas Code § 26–51–813(e)(1), concerning reports, returns, confidentiality, and exceptions in regards to tax returns, is amended to read as follows:

<< AR ST § 26–51–813 >>

(e)(1) Nothing in this section shall be construed to prohibit the Department of Finance and Administration from disclosing from any return or other record maintained by the ~~director~~ **secretary** to the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration the last known address or whereabouts or the last known employer of any deserting parent from whom the office is charged with collecting child support.

SECTION 3747. Arkansas Code § 26–51–813(f)(1), concerning reports, returns, confidentiality, and exceptions in regards to tax returns, is amended to read as follows:

<< AR ST § 26–51–813 >>

(f)(1) Nothing in this section shall be construed to prohibit the Department of Finance and Administration from disclosing from any return or other record maintained by the ~~director~~ **secretary** to the Student Loan Guarantee Foundation of Arkansas, the last known address or whereabouts or the last known employer of any person from whom the Student Loan Guarantee Foundation of Arkansas is charged with collecting a student loan indebtedness.

SECTION 3748. Arkansas Code § 26–51–813(g), concerning reports, returns, confidentiality, and exceptions in regards to tax returns, is amended to read as follows:

<< AR ST § 26–51–813 >>

(g)(1) Nothing in this section shall be construed to prohibit the Department of Finance and Administration from disclosing from any return or other record maintained by the ~~director~~ **secretary** to the ~~Department~~ **Division** of Higher Education or any Arkansas public institution of higher education the last known address or whereabouts or the last known employer of any person from whom these institutions are charged with collecting student indebtedness.

(2) In providing this information, the Department of Finance and Administration shall not allow the ~~Department~~ **Division** of Higher Education or the Arkansas public institutions of higher education to examine the tax return.

SECTION 3749. Arkansas Code § 26–51–814 is amended to read as follows:

<< AR ST § 26–51–814 >>

26–51–814. Reports and returns — Preservation and destruction.

All reports and returns required by the Income Tax Act of 1929 shall be preserved for three (3) years and thereafter until the ~~Director~~ **Secretary** of the Department of Finance and Administration orders them destroyed.

SECTION 3750. Arkansas Code § 26–51–816(a), concerning a signature on a prepared income tax form, is amended to read as follows:

<< AR ST § 26–51–816 >>

(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 3751. Arkansas Code § 26–51–816(c) and (d), concerning a signature on a prepared income tax form, are amended to read as follows:

<< AR ST § 26–51–816 >>

(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 3752. Arkansas Code § 26–51–902(3), concerning the definition of “director” under the Arkansas Income Tax Withholding Act, is repealed.

<< AR ST § 26–51–902 >>

(3) “Director” means the ~~Director of the Department of Finance and Administration of the State of Arkansas;~~

SECTION 3753. Arkansas Code § 26–51–904 is amended to read as follows:

<< AR ST § 26–51–904 >>

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 3754. Arkansas Code § 26–51–905 is amended to read as follows:

<< AR ST § 26–51–905 >>

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 the employee under the Income Tax Act of 1929, § 26-51-101 et seq., for that year.

(b)(1) Notwithstanding the provisions of subsection (a) of this section, every employer who withholds less than one thousand dollars (\$1,000) for a full year's withholding shall report and remit annually on a date specified by the ~~director~~ **secretary** any amounts so withheld by the employer.

(2) An employer shall be advised by the ~~director~~ **secretary** of the employer's classification and shall report as classified until such time as the employer advises the ~~director~~ **secretary** in writing that the employer no longer has employees or the employer is closing the business.

(3) However, it shall be the duty of the employer to report to the ~~director~~ **secretary** at the end of each income year all wages paid to any such employees on the same forms provided in this subchapter for making employer annual withholding statements in order that the ~~director~~ **secretary** may determine the tax liability, if any, of those employees during that income year.

SECTION 3755. Arkansas Code § 26-51-906 is amended to read as follows:

<< AR ST § 26-51-906 >>

26-51-906. Withholding state income taxes of federal employees by federal agencies.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized and directed to enter into an agreement with the **United States** Secretary of the Treasury of the ~~United States~~ with respect to withholding of income tax as provided by this subchapter and pursuant to an ~~Pub. Law~~ **L.** No. 587 of 1952 and to Executive Order No. 10407 of November 7, 1952.

SECTION 3756. Arkansas Code § 26-51-907 is amended to read as follows:

<< AR ST § 26-51-907 >>

26-51-907. Withholding tables.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall prepare and furnish to employers state income tax withholding tables based on the current income tax laws of the state, taking into consideration the various deductions and personal tax credits allowed therein. The tables shall be designed to provide for a yearly aggregate withholding that will approximate the state income tax liability of the average taxpayer with the various personal tax credits.

SECTION 3757. Arkansas Code § 26-51-908 is amended to read as follows:

<< AR ST § 26-51-908 >>

26-51-908. Employer's return and payment of taxes withheld.

(a)(1) Every employer required to deduct and withhold from wages under this subchapter shall file a withholding return on an annual basis as prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration and annually pay over to the ~~director~~ **secretary** the full amount required to be deducted and withheld from the wages of the employees if the amount is less than one thousand dollars (\$1,000) per year.

(2) Every employer required to deduct and withhold from wages under this subchapter shall file a withholding return on a monthly basis as prescribed by the ~~director~~ **secretary** and pay over on a monthly basis to the ~~director~~ **secretary** the full amount required to be deducted and withheld from the wages of the employees if the amount is one thousand dollars (\$1,000) or more per year.

(3) However, the ~~director~~ **secretary** may provide by regulation that every such employer shall on or before the fifteenth day of each month pay over to the ~~director~~ **secretary** or a depository designated by the ~~director~~ **secretary** the amount required to be deducted and withheld by the employer for the preceding month if the amount is one hundred dollars (\$100) or more.

(b)(1) Notwithstanding any other provision of this section, all transient employers shall make return and pay over to the ~~director~~ **secretary**, on a monthly basis, the full amounts required to be deducted and withheld from the wages by the transient employer for the calendar month.

(2) The returns and payments to the ~~director~~ **secretary** by transient employers shall be made on or before the last day of the month following the month for which the amounts were deducted and withheld from the wages of the transient employer's employees.

(c)(1) Notwithstanding any other provision of this section, all employers engaged in any business which is seasonal shall make return and pay over to the ~~director~~ **secretary** on a monthly basis the amounts required to be deducted and withheld from the wages by the employer for the calendar month.

(2) Returns and payments to the ~~director~~ **secretary** by employers engaged in seasonal business shall be made on or before the last day of the month following the month for which those amounts were deducted and withheld from the wages of the employer's employees.

(d) When the ~~director~~ **secretary** has justifiable reason to believe that the collection of funds required to be withheld by any employer as provided in this subchapter is in jeopardy, the ~~director~~ **secretary** may require the employer to file a return and pay the amounts required to be withheld at any time.

(e) Every employer who fails to withhold or pay to the ~~director~~ **secretary** any sums required by this subchapter to be withheld and paid shall be personally and individually liable for the sums except as provided in § 26-51-916.

(f) Any sum withheld in accordance with the provisions of this subchapter shall be deemed to be held in trust for the State of Arkansas and shall be recorded by the employer in a ledger account so as to clearly indicate the amount of tax withheld and that the amount is the property of the State of Arkansas.

(g)(1) When an employer has become liable to an annual return of withholding, the employer must continue to file an annual report, even though no tax has been withheld, until such time as the employer notifies the ~~director~~ **secretary**, in writing, that the employer no longer has employees or that the employer is no longer liable for an annual return.

(2) When an employer has become liable to a monthly return of withholding, the employer must continue to file a monthly report, even though no tax has been withheld until such time as the employer notifies the ~~director~~ **secretary**, in writing, that the employer no longer has employees or that the employer is no longer liable for monthly returns.

(h)(1) For any withholding tax reporting period, a company or any other business enterprise which provides the service of reporting and remitting withholding tax on the wages paid to Arkansas employees by other employers shall remit all such withholding taxes to the ~~director~~ **secretary** by electronic funds transfer, as more particularly described in § 26-19-105.

(2) However, a company or business which provides tax reporting and remitting services shall not be required to remit withholding taxes by electronic funds transfer if the company or business provides those services for fewer than one hundred (100) Arkansas employers.

(3) As used in this subsection, "Arkansas employer" means any employer required by Arkansas law to withhold, report, and remit Arkansas income tax on the wages, salary, or other compensation paid to its employees within this state.

SECTION 3758. Arkansas Code § 26–51–909(b)(1) and (2), concerning annual withholding statements, are amended to read as follows:

<< AR ST § 26–51–909 >>

(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 3759. Arkansas Code § 26–51–909(c)(5), concerning annual withholding statements, is amended to read as follows:

<< AR ST § 26–51–909 >>

(5) Such other information as the ~~director~~ **secretary** shall require by rule or regulation.

SECTION 3760. Arkansas Code § 26–51–910 is amended to read as follows:

<< AR ST § 26–51–910 >>

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 3761. Arkansas Code § 26–51–911(a) and (b), concerning the declaration of estimated tax, are amended to read as follows:

<< AR ST § 26–51–911 >>

(a) Every taxpayer subject to the tax levied by the Income Tax Act of 1929, § 26–51–101 et seq., shall make and file with the ~~Director~~ **Secretary** of the Department of Finance and Administration a declaration of the estimated tax for the income year if the taxpayer can reasonably expect the estimated tax to be more than one thousand dollars (\$1,000).

(b) The declaration of estimated tax shall be made on such forms and shall include such information as the ~~director~~ **secretary** shall prescribe.

SECTION 3762. Arkansas Code § 26–51–911(c)(1), concerning the declaration of estimated tax, is amended to read as follows:

<< AR ST § 26–51–911 >>

(c)(1) The declaration shall be filed with the ~~director~~ **secretary** on or before the fifteenth day of the fourth month of the income year of the taxpayer.

SECTION 3763. Arkansas Code § 26–51–911(f), concerning the declaration of estimated tax, is amended to read as follows:

<< AR ST § 26–51–911 >>

(f) A taxpayer may file amendments to a declaration at such times, under such rules and regulations, and in such form as the ~~director~~ **secretary** shall prescribe.

SECTION 3764. The introductory language of Arkansas Code § 26–51–913(a), concerning payments of estimated tax, is amended to read as follows:

<< AR ST § 26–51–913 >>

(a) The estimated tax as shown on the declaration filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration shall be paid as follows:

SECTION 3765. Arkansas Code § 26–51–915 is amended to read as follows:

<< AR ST § 26–51–915 >>

26–51–915. Deposits of payments — Refunds.

(a) All payments received by the ~~Director~~ **Secretary** of the Department of Finance and Administration from employers for taxes withheld from employees and all payments received by the ~~director~~ **secretary** from taxpayers as herein provided shall be deposited into the State Treasury as general revenues to the credit of the State Apportionment Fund.

(b) Based upon information provided by the ~~director~~ **secretary**, the Chief Fiscal Officer of the State shall determine the amount estimated to be necessary to meet any refunds of state income taxes under the provisions of this subchapter, and, upon certification of the Chief Fiscal Officer of the State, the Treasurer of State shall transfer from any general revenues

in the General Revenue Allotment Reserve Fund the amount so certified to the Individual Income Tax Withholding Fund, from which the ~~director~~ **secretary** is authorized to make refunds as provided for by law and by this subchapter.

(c) All refund warrants drawn against the Individual Income Tax Withholding Fund which are not presented for payment within one (1) year of issuance shall be void.

(d) Neither the ~~director~~ **secretary** nor any member or employee of the Revenue Division of the Department of Finance and Administration shall be held personally liable for making any refund by reason of a fraudulent withholding certificate being used as a basis for the refund.

SECTION 3766. Arkansas Code § 26–51–917 is amended to read as follows:

<< AR ST § 26–51–917 >>

26–51–917. Employer's withholding account number.

Every employer, as defined in this subchapter, shall make application to the Revenue Division of the Department of Finance and Administration for and be assigned an employer's withholding account number. The account number assigned to an employer shall be used by the employer on all returns, reports, and inquiries addressed to the ~~Director~~ **Secretary** of the Department of Finance and Administration or the division.

SECTION 3767. Arkansas Code § 26–51–919(b)(1)(A)(ii), concerning pass-through entities, is amended to read as follows:

<< AR ST § 26–51–919 >>

(ii) The pass-through entity is liable to the ~~Director~~ **Secretary** of the Department of Finance and Administration for the payment of the tax required to be withheld and is not liable to the member for the amount withheld and paid to the ~~director~~ **secretary**.

SECTION 3768. Arkansas Code § 26–51–919(b)(1)(B)(ii), concerning pass-through entities, is amended to read as follows:

<< AR ST § 26–51–919 >>

(ii) The ~~director~~ **secretary** shall apply the tax withheld and paid by a pass-through entity on distributions to a lower-tier pass-through entity to the withholding required of that lower-tier pass-through entity.

SECTION 3769. Arkansas Code § 26–51–919(b)(2), concerning pass-through entities, is amended to read as follows:

<< AR ST § 26–51–919 >>

(2)(A) On or before the due date for the pass-through entity's composite income tax return described in subsection (d) of this section, a pass-through entity shall file an annual return with the ~~director~~ **secretary** showing the total amount of income distributed or credited to its nonresident members and the amount of tax withheld and shall remit the amount of tax withheld.

(B) The annual return shall be in an electronic format prescribed by the ~~director~~ **secretary**.

SECTION 3770. Arkansas Code § 26-51-919(c)(2), concerning pass-through entities, is amended to read as follows:

<< AR ST § 26-51-919 >>

(2) The ~~director~~ **secretary** has determined that the nonresident member's income is not subject to withholding;

SECTION 3771. Arkansas Code § 26-51-919(c)(4)(B), concerning pass-through entities, is amended to read as follows:

<< AR ST § 26-51-919 >>

(B) Has agreed to file an annual information return reporting the name, address, and taxpayer identification number of each member with an annual Arkansas income greater than five hundred dollars (\$500) along with any other information requested by the ~~director~~ **secretary**;

SECTION 3772. Arkansas Code § 26-51-919(c)(5)(A), concerning pass-through entities, is amended to read as follows:

<< AR ST § 26-51-919 >>

(5)(A) The pass-through entity has filed with the ~~director~~ **secretary** on forms prescribed by the ~~director~~ **secretary** the nonresident member's signed agreement to timely file an Arkansas corporation, nonresident individual, or trust income tax return, to pay any tax due on the return, and to be subject to the jurisdiction of the Department of Finance and Administration in the courts of this state for the purpose of determining and collecting any Arkansas income tax together with interest and penalties owed by the nonresident member.

SECTION 3773. Arkansas Code § 26-51-919(d)(4), concerning pass-through entities, is amended to read as follows:

<< AR ST § 26-51-919 >>

(4) On or before the fifteenth day of the fourth month following the end of the pass-through entity's tax year, a pass-through entity shall file an annual composite return with the ~~director~~ **secretary** showing the total amount of income distributed or credited to its nonresident members and the amount of tax withheld and shall remit the tax due on the composite income tax return.

SECTION 3774. Arkansas Code § 26-51-919(e), concerning pass-through entities, is amended to read as follows:

<< AR ST § 26-51-919 >>

(e) The ~~director~~ **secretary** may promulgate rules necessary to administer this section.

SECTION 3775. Arkansas Code § 26-51-1104(b) and (c), concerning the requirement of documentation to claim a tax credit for the donation or sale of equipment to educational institutions, are amended to read as follows:

<< AR ST § 26-51-1104 >>

(b) To claim the credit granted by § 26–51–1102, the taxpayer must show that the Division of Science and Technology of the Arkansas Economic Development Commission and the ~~Department~~ **Division** of Higher Education have approved the qualified research expenditure as a part of a qualified research program.

(c) Copies of each of the above documents shall be filed by the taxpayer with his or her return as an attachment to the form prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3776. Arkansas Code § 26–51–1105 is amended to read as follows:

<< AR ST § 26–51–1105 >>

26–51–1105. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration, the Director of the ~~Department~~ **Division** of Higher Education, the Director of the ~~Department~~ **Division** of Career **and Technical** Education, the ~~Director~~ of the ~~Department of Workforce Education~~ , and the Executive Director of the Arkansas Economic Development Commission shall promulgate such reasonable rules as they shall deem necessary and appropriate to carry out the purposes of this subchapter.

SECTION 3777. Arkansas Code § 26–51–1306 is amended to read as follows:

<< AR ST § 26–51–1306 >>

26–51–1306. Withholding return and payment for racing winnings.

Every franchise holder required to deduct and withhold income tax from racing winnings under this subchapter shall file, within sixty (60) days after the termination of its racing season, a withholding return as prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration and pay over to the ~~director~~ **secretary** the full amount required to be deducted and withheld from the racing winnings by the franchise holder for the income year.

SECTION 3778. Arkansas Code § 26–51–1307(b)(1), concerning the annual statement of withholdings for racing winnings, is amended to read as follows:

<< AR ST § 26–51–1307 >>

(b)(1) The annual statement shall be in the form prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration and shall be filed with the ~~director~~ **secretary**.

SECTION 3779. Arkansas Code § 26–51–1307(c)(5), concerning the annual statement of withholdings for racing winnings, is amended to read as follows:

<< AR ST § 26–51–1307 >>

(5) Such other information as the ~~director~~ **secretary** shall require by rule or regulation.

SECTION 3780. Arkansas Code § 26–51–1308(a), concerning the duties of franchise holders and payees, is amended to read as follows:

<< AR ST § 26–51–1308 >>

(a) Every holder of a franchise to conduct dog racing, horse racing, or electronic games of skill who fails to withhold or pay to the ~~Director~~ **Secretary** of the Department of Finance and Administration any sums required by this subchapter to be withheld and paid shall be personally and individually liable therefor. Any sum or sums withheld in accordance with the provisions of this subchapter shall be deemed to be held in trust for the State of Arkansas and shall be recorded by the franchise holder in a ledger account so as to clearly indicate the amount of tax withheld and that the amount is the property of the State of Arkansas.

SECTION 3781. Arkansas Code § 26–51–1309(b)(2), concerning the taxing of game winnings, withholdings, and remittance, is amended to read as follows:

<< AR ST § 26–51–1309 >>

(2) Remit the tax to the ~~Director~~ **Secretary** of the Department of Finance and Administration as provided in § 26–51–1310 and as prescribed by rules promulgated by the ~~director~~ **secretary**.

SECTION 3782. Arkansas Code § 26–51–1310(a), concerning withholdings, reporting, payment, and electronic games of skill, is amended to read as follows:

<< AR ST § 26–51–1310 >>

(a) The holder of a franchise to conduct electronic games of skill in this state shall register to withhold the gaming winnings tax under § 26–51–1309 from winnings from electronic games of skill in the manner prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3783. The introductory language of Arkansas Code § 26–51–1401(d), concerning the apportionment allocation of net income, is amended to read as follows:

<< AR ST § 26–51–1401 >>

(d) If the allocation and apportionment provisions of this subchapter 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 3784. Arkansas Code § 26–51–1402(8)(J)(iii), concerning the apportionment and allocation of net income of financial institutions, is amended to read as follows:

<< AR ST § 26–51–1402 >>

(iii) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to exclude any person from the application of this subdivision (8)(J) upon such person's proving, by clear and convincing evidence, that the income-producing activity of such person is not in substantial competition with those persons described in subdivisions (8)(B)–(G) and (I) of this section;

SECTION 3785. Arkansas Code § 26–51–1403(m)(4), concerning the receipts factor, is amended to read as follows:

<< AR ST § 26-51-1403 >>

(4) If the taxpayer elects or is required by the ~~Director~~ **Secretary** of the Department of Finance and Administration to use the method set forth in subdivision (m)(3) of this section, it shall use this method on all subsequent returns unless the taxpayer receives prior permission from the ~~director~~ **secretary** to use, or the ~~director~~ **secretary** requires, a different method.

SECTION 3786 Arkansas Code § 26-51-1404(d)(2), concerning the property factor, is amended to read as follows:

<< AR ST § 26-51-1404 >>

(2) If averaging on this basis does not properly reflect average value, the ~~Director~~ **Secretary** of the Department of Finance and Administration may require averaging on a more frequent basis.

SECTION 3787. Arkansas Code § 26-51-1404(d)(4), concerning the property factor, is amended to read as follows:

<< AR ST § 26-51-1404 >>

(4) When averaging on a more frequent basis is required by the ~~Director~~ **Secretary** of the Department of Finance and Administration or is elected by the taxpayer, the same method of valuation must be used consistently by the taxpayer with respect to property within and without this state and on all subsequent returns unless the taxpayer receives prior permission from the ~~director~~ **secretary** or the ~~director~~ **secretary** requires a different method of determining average value.

SECTION 3788. Arkansas Code § 26-51-1404(e)(2), concerning the property factor, is amended to read as follows:

<< AR ST § 26-51-1404 >>

(2)(A) Where the use of the general method described in this subsection results in inaccurate valuations of rented property, any other method which properly reflects the value may be adopted by the ~~director~~ **secretary** or by the taxpayer when approved in writing by the ~~director~~ **secretary**.

(B) Once approved, such other method of valuation must be used on all subsequent returns unless the taxpayer receives prior approval from the ~~director~~ **secretary** or unless the ~~director~~ **secretary** requires a different method of valuation.

SECTION 3789. Arkansas Code § 26-51-1404(g)(2)(B), concerning the property factor, is amended to read as follows:

<< AR ST § 26-51-1404 >>

(B) The presumption of proper assignment of a loan provided in subdivisions (g)(1)(B) and (g)(2)(A) of this section may be rebutted upon a showing by the ~~director~~ **secretary**, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur at the regular place of business to which it was assigned on the taxpayer's records.

SECTION 3790. Arkansas Code § 26–51–1701(2), concerning the definition of “director” under the low income housing tax credit, is repealed.

<< AR ST § 26–51–1701 >>

(2) “Director” means the Director of the Department of Finance and Administration;

SECTION 3791. Arkansas Code § 26–51–1702(d) and (e), concerning the allowance and calculation of tax credit, are amended to read as follows:

<< AR ST § 26–51–1702 >>

(d) All or any portion of the Arkansas low income housing tax credits may be allocated to parties who are eligible under the provisions of subsection (a) of this section. An owner of a qualified project shall certify to the ~~Director~~ **Secretary** of the Department of Finance and Administration the amount of the Arkansas low income housing tax credit allocated to each taxpayer.

(e) In the event that recapture of Arkansas low income housing tax credits is required pursuant to § 26–51–1703(b) of this subchapter, any statement submitted to the ~~director~~ **secretary** as provided in this section shall include the proportion of the Arkansas low income housing tax credit required to be recaptured, the identity of each taxpayer subject to the recapture and the amount of Arkansas low income housing tax credit previously allocated to such taxpayer.

SECTION 3792. Arkansas Code § 26–51–1704(b) and (c), concerning the sale, assignment, and transfer of tax credit, are amended to read as follows:

<< AR ST § 26–51–1704 >>

(b) An owner or transferee desiring to make a transfer, sale, or assignment as described in subsection (a) of this section shall submit to the ~~Director~~ **Secretary** of the Department of Finance and Administration a statement which describes the amount of Arkansas low income housing tax credit for which transfer, sale, or assignment of Arkansas low income housing tax credit is eligible. The owner shall provide to the ~~director~~ **secretary** such information as is specified by the Department of Finance and Administration in regulations so that the Arkansas low income housing tax credit may be properly allocated.

(c) In the event that recapture of Arkansas low income housing tax credit is required pursuant to § 26–51–1703(b) of this subchapter, the statements submitted to the ~~director~~ **secretary** as provided in this section shall include the proportion of the Arkansas low income housing tax credit required to be recaptured, the identity of each transferee subject to recapture, and the amount of Arkansas low income housing tax credit previously transferred to such transferee and such other information as is specified by the department in regulations.

SECTION 3793. Arkansas Code § 26–51–1705 is amended to read as follows:

<< AR ST § 26–51–1705 >>

26–51–1705. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration and the Arkansas Development Finance Authority shall promulgate rules and regulations necessary to administer the provisions of this subchapter. No rule or portion of a rule promulgated under the authority of this section shall become effective until it has been approved by the ~~director~~ **secretary** in accordance with the Arkansas Administrative Procedure Act, § 25–15–201 et seq.

SECTION 3794. Arkansas Code § 26–51–2005(b), concerning qualification and determination of credit, is amended to read as follows:

<< AR ST § 26–51–2005 >>

(b)(1) Upon determination by the Director of the Arkansas Economic Development Commission that the project qualifies for credit under this subchapter, the Director of the Arkansas Economic Development Commission shall certify to the ~~Director~~ **Secretary** of the Department of Finance and Administration that the project is qualified and transmit with his or her certification the documents upon which the certification was based or copies.

(2) Upon receipt by the ~~Director~~ **Secretary** of the Department of Finance and Administration of a certification from the Director of the Arkansas Economic Development Commission that an eligible business is entitled to credit under this subchapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide forms to the eligible business on which to claim the credit.

SECTION 3795. Arkansas Code § 26–51–2005(c)(1), concerning qualification and determination of credit, is amended to read as follows:

<< AR ST § 26–51–2005 >>

(c)(1) At the end of the calendar year in which the application was made to the Director of the Arkansas Economic Development Commission and at the end of each calendar year thereafter until the project is completed, the eligible business shall certify on the form provided by the ~~Director~~ **Secretary** of the Department of Finance and Administration the amount of expenditures on the project during the preceding calendar year.

SECTION 3796. Arkansas Code § 26–51–2005(c)(2)(A), concerning qualification and determination of credit, is amended to read as follows:

<< AR ST § 26–51–2005 >>

(2)(A) Upon receipt of the form certifying expenditures, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall determine the amount due as a credit for the preceding calendar year and issue a memorandum of credit to the eligible business in the amount of seven percent (7%) of the expenditure.

SECTION 3797. Arkansas Code § 26–51–2005(c)(2)(B)(iii) and (iv), concerning qualification and determination of credit, are amended to read as follows:

<< AR ST § 26–51–2005 >>

(iii) The ~~Director~~ **Secretary** of the Department of Finance and Administration may require proof of these expenditures.

(iv) The ~~Director~~ **Secretary** of the Department of Finance and Administration may examine those records necessary and specific to the project to determine credit eligibility. Any credits disallowed shall be subject to payment in full.

SECTION 3798. Arkansas Code § 26–51–2303(b), concerning the administration of the Arkansas Tax Procedure Act, is amended to read as follows:

<< AR ST § 26–51–2303 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall make and prescribe such rules, regulations, and forms as he or she deems necessary to administer this subchapter.

SECTION 3799. Arkansas Code § 26–51–2305(a), concerning lottery withholdings, reporting, and payment, is amended to read as follows:

<< AR ST § 26–51–2305 >>

(a) A claim center shall register to withhold income tax under § 26–51–2304 from lottery winnings in the manner prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3800. Arkansas Code § 26–51–2305(f)(2)(E), concerning lottery withholdings, reporting, and payment, is amended to read as follows:

<< AR ST § 26–51–2305 >>

(E) Such other information as the ~~director~~ **secretary** shall require by rule.

SECTION 3801. Arkansas Code § 26–51–2411(a)(1), concerning the enforcement and deposit of fees, is amended to read as follows:

<< AR ST § 26–51–2411 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration may make rules and prescribe forms for a taxpayer to claim the investment tax credit provided by this subchapter and for the proper enforcement of the claim.

SECTION 3802. Arkansas Code § 26–51–2411(d), concerning the enforcement and deposit of fees, is amended to read as follows:

<< AR ST § 26–51–2411 >>

(d) The ~~director~~ **secretary** shall demand the repayment of any investment tax credits taken in excess of the investment tax credit allowed by this subchapter.

SECTION 3803. Arkansas Code § 26–51–2502(c) and (d), concerning the Disaster Relief Income Tax Check–Off Program, are amended to read as follows:

<< AR ST § 26–51–2502 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the authority to promulgate all rules and regulations and all income tax forms, returns, and schedules necessary to carry out this program.

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to accept any gifts, grants, bequests, devises, and donations made to the State of Arkansas for the purposes of funding the Arkansas Disaster Relief Program. The ~~director~~ **secretary** shall deposit any of these gifts, grants, bequests, devises, and donations so received into the Arkansas Disaster Relief Program Trust Fund. These gifts, grants, bequests, devises, and donations shall be used together with any other funds appropriated for funding the program provided for in this section. ~~All gifts, grants, bequests, devises, and donations shall be deposited, disbursed, budgeted, and regulated under the procedures prescribed by the Chief Fiscal Officer of the State under § 19-4-807 [repealed].~~

SECTION 3804. Arkansas Code § 26-51-2502(e)(1)(A), concerning the Disaster Relief Income Tax Check-Off Program, is amended to read as follows:

<< AR ST § 26-51-2502 >>

(e)(1)(A) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State an Arkansas Disaster Relief Program Trust Fund to be used by the ~~Arkansas Department~~ **Division** of Emergency Management for disaster relief.

SECTION 3805. Arkansas Code § 26-51-2502(f), concerning the Disaster Relief Income Tax Check-Off Program, is amended to read as follows:

<< AR ST § 26-51-2502 >>

(f)(1) The Revenue Division of the Department of Finance and Administration may establish any rule to effectively carry out the revenue producing provisions of this section.

(2) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules to carry out the provisions of this section that allow the ~~director~~ **secretary** to accept gifts, grants, bequests, devises, and donations.

SECTION 3806. Arkansas Code § 26-51-2503(a)(3), concerning contributions to the Arkansas School for the Blind and the Arkansas School for the Deaf, is amended to read as follows:

<< AR ST § 26-51-2503 >>

(3) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate all rules and regulations and all income tax forms, returns, and schedules necessary to implement this section.

SECTION 3807. The introductory language of Arkansas Code § 26-51-2504(d), concerning the Baby Sharon Act, is amended to read as follows:

<< AR ST § 26-51-2504 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration may:

SECTION 3808. Arkansas Code § 26-51-2504(f), concerning the Baby Sharon Act, is amended to read as follows:

<< AR ST § 26-51-2504 >>

(f) The ~~director~~ **secretary** shall promulgate all rules and regulations and all income tax forms, returns, and schedules necessary to carry out the revenue-producing provisions of this section.

SECTION 3809. The introductory language of Arkansas Code § 26-51-2506(d), concerning the Military Family Relief Check-off Program, is amended to read as follows:

<< AR ST § 26-51-2506 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration may:

SECTION 3810. Arkansas Code § 26-51-2506(f), concerning the Military Family Relief Check-off Program, is amended to read as follows:

<< AR ST § 26-51-2506 >>

(f) The ~~director~~ **secretary** shall promulgate rules and all income tax forms, returns, and schedules necessary to carry out the revenue-producing provisions of this section.

SECTION 3811. Arkansas Code § 26-51-2506(j)(2), concerning the Military Family Relief Check-off Program, is amended to read as follows:

<< AR ST § 26-51-2506 >>

(2) The provisions of this section allowing the ~~director~~ **secretary** to accept gifts, grants, bequests, devises, and donations shall be effective on August 1, 2005.

SECTION 3812. Arkansas Code § 26-51-2507(a)(3), concerning contributions to the Arkansas Area Agencies on Aging, is amended to read as follows:

<< AR ST § 26-51-2507 >>

(3) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules and develop all income tax forms, returns, and schedules necessary to implement this section.

SECTION 3813. Arkansas Code § 26-51-2508(d), concerning the income tax check-off program for contributions to the Newborn Umbilical Cord Blood Initiative, is amended to read as follows:

<< AR ST § 26-51-2508 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate all rules and all income tax forms, returns, and schedules necessary to carry out the program.

SECTION 3814. Arkansas Code § 26-51-2509(c), concerning contributions to the Arkansas Tax-Deferred Tuition Savings Program account, is amended to read as follows:

<< AR ST § 26–51–2509 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules and develop all income tax forms, returns, and schedules necessary to implement this section.

SECTION 3815. Arkansas Code § 26–51–2510(d), concerning contributions to the Arkansas Game and Fish Foundation, is amended to read as follows:

<< AR ST § 26–51–2510 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules necessary to carry out the program established under this section.

SECTION 3816. Arkansas Code § 26–52–103(14), concerning the definition of “director” under the laws regarding gross receipts tax, is repealed.

<< AR ST § 26–52–103 >>

~~(14) “Director” means the Director of the Department of Finance and Administration or any of his or her authorized agents;~~

SECTION 3817. Arkansas Code § 26–52–103(31), concerning the definition of “tax period” under the laws regarding gross receipts tax, is amended to read as follows:

<< AR ST § 26–52–103 >>

(31) “Tax period” or “taxable period” means either the calendar period or the taxpayer's fiscal period when a taxpayer has obtained a permit from the ~~director~~ **Secretary of the Department of Finance and Administration** or from any of his or her authorized agents to use a fiscal period in lieu of a calendar period;

SECTION 3818. Arkansas Code § 26–52–105 is amended to read as follows:

<< AR ST § 26–52–105 >>

26–52–105. Administration — Rules and regulations.

(a) The administration of this chapter is vested in and shall be exercised by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) The ~~director~~ **secretary** shall promulgate rules and regulations and prescribe forms for the proper enforcement of this chapter.

SECTION 3819. Arkansas Code § 26–52–106(b), concerning the cost of administration and the distribution of an annual surplus, is amended to read as follows:

<< AR ST § 26–52–106 >>

(b) If any funds appropriated for the administration of this chapter shall remain in the hands of the ~~Director~~ **Secretary** of the Department of Finance and Administration at the end of each fiscal year that shall not have been actually used in

the administration of this chapter, then the funds shall be remitted by the ~~director~~ **secretary** to the Treasurer of State for distribution in the same manner and for the same purposes provided for in § 26–52–107.

SECTION 3820. Arkansas Code § 26–52–107 is amended to read as follows:

<< AR ST § 26–52–107 >>

26–52–107. Disposition of taxes, interest, and penalties.

All taxes, interest, penalties, and costs received by the ~~Director~~ **Secretary** of the Department of Finance and Administration under the provisions of this chapter shall be general revenues and shall be deposited into the State Treasury to the credit of the State Apportionment Fund. The Treasurer of State shall allocate and transfer the same 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 3821. Arkansas Code § 26–52–108 is amended to read as follows:

<< AR ST § 26–52–108 >>

26–52–108. Changes in law — Notice to permit holders.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall give each gross receipts tax permit holder under § 26–52–201 written notice of any new state sales and use tax law or any change in the present state sales and use tax law within thirty (30) days after the adjournment of the General Assembly.

SECTION 3822. Arkansas Code § 26–52–110(f), concerning sellers and affiliated persons, referral agreements, and requirement of notice, is amended to read as follows:

<< AR ST § 26–52–110 >>

(f) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules to implement this section.

SECTION 3823. Arkansas Code § 26–52–201(a) and (b), concerning the requirement for a gross receipts tax permit, are amended to read as follows:

<< AR ST § 26–52–201 >>

(a) It shall be unlawful for any taxpayer to transact business within this state prior to issuance and receipt of an Arkansas gross receipts tax permit from the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) A separate permit for each business location must be obtained from the ~~director~~ **secretary**.

SECTION 3824. Arkansas Code § 26–52–201(e), concerning the requirement for a gross receipts tax permit, are amended to read as follows:

<< AR ST § 26–52–201 >>

(e) The ~~director~~ **secretary** is authorized to establish types and classifications of Arkansas gross receipts tax permits, including without limitation special permits for taxpayers whose principal line of business does not include the retail selling of tangible personal property, specified digital products, or a digital code or the performing of taxable services.

SECTION 3825. Arkansas Code § 26-52-202(a), concerning an application for a gross receipts tax permit, is amended to read as follows:

<< AR ST § 26-52-202 >>

(a) Every taxpayer shall file with the ~~Director~~ **Secretary** of the Department of Finance and Administration an application for a gross receipts tax permit to conduct the taxpayer's business, setting forth such information as the ~~director~~ **secretary** may require.

SECTION 3826. Arkansas Code § 26-52-202(c), concerning an application for a gross receipts tax permit, is amended to read as follows:

<< AR ST § 26-52-202 >>

(c) A taxpayer is permitted to file an application through an agent if the registration is filed with the ~~director~~ **secretary** and is made in writing.

SECTION 3827. Arkansas Code § 26-52-203(a) and (b), concerning fee deposits or the requirement of a bond, are amended to read as follows:

<< AR ST § 26-52-203 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall require prior to the issuance of any new Arkansas gross receipts tax permit the payment of a nonrefundable fee of fifty dollars (\$50.00), which shall be remitted with each new application for a permit.

(b) All persons doing a retail business in this state, which business is subject to the provisions of this chapter, who do not have a permanent domicile in this state, shall make a sufficient cash deposit or sufficient bond with the ~~director~~ **secretary** to cover their annual sales tax before doing business in this state or before receiving a permit to do business in this state as provided in § 26-52-201.

SECTION 3828. Arkansas Code § 26-52-207(a)(1) and (2), concerning the discontinuance of a business and unpaid taxes, are amended to read as follows:

<< AR ST § 26-52-207 >>

(a)(1) Any taxpayer operating under a permit as provided in this subchapter, upon discontinuance of business by sale or otherwise, shall return the permit to the ~~Director~~ **Secretary** of the Department of Finance and Administration for cancellation together with a remittance of any unpaid or accrued taxes.

(2) Failure to surrender a permit and pay any and all accrued taxes shall be sufficient cause for the ~~director~~ **secretary** to refuse the issuance of any permit in the future to the taxpayer to engage in or transact any other business in this state.

SECTION 3829. Arkansas Code § 26–52–207(b), concerning the discontinuance of a business and unpaid taxes, is amended to read as follows:

<< AR ST § 26–52–207 >>

(b) The ~~director~~ **secretary** shall not issue a permit to continue or conduct the business to the purchaser of the business until all tax claims due in the State of Arkansas under this section have been settled and paid.

SECTION 3830. Arkansas Code § 26–52–210(a)(1)(B), concerning an automatic expiration of gross receipts tax permits, is amended to read as follows:

<< AR ST § 26–52–210 >>

(B)(i) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall notify the taxpayer in writing that the gross receipts tax permit has expired.

(ii) Within thirty (30) days after the date of the notice, the taxpayer shall return the permit to the ~~director~~ **secretary**.

SECTION 3831. Arkansas Code § 26–52–210(b), concerning an automatic expiration of gross receipts tax permits, is amended to read as follows:

<< AR ST § 26–52–210 >>

(b)(1) Any taxpayer who has been notified that his or her gross receipts tax permit will expire may petition the ~~director~~ **secretary** to retain the taxpayer's gross receipts tax permit if the taxpayer reasonably expects to engage in business within the twelve-month period immediately following the notification.

(2) The ~~director~~ **secretary** may allow a taxpayer to retain the taxpayer's gross receipts tax permit if the taxpayer demonstrates to the ~~director's~~ **secretary's** satisfaction that the taxpayer will require a gross receipts tax permit within the following twelve (12) months to engage in business.

SECTION 3832. Arkansas Code § 26–52–303(c)(1), concerning border cities or towns, tax rates, and exemptions, is amended to read as follows:

<< AR ST § 26–52–303 >>

(c)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall require any person claiming this exemption to file a sworn statement in writing that the person is a resident of that city or incorporated town and such other information as the ~~director~~ **secretary** may determine is necessary to establish the residence of the person.

SECTION 3833. Arkansas Code § 26–52–314(e), concerning prepaid calling services and prepaid wireless calling services, is amended to read as follows:

<< AR ST § 26–52–314 >>

(e) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules to implement this section.

SECTION 3834. The introductory language of Arkansas Code § 26-52-317(a)(1), concerning food and food ingredients, is amended to read as follows:

<< AR ST § 26-52-317 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall determine the following conditions:

SECTION 3835. Arkansas Code § 26-52-317(a)(1)(C)(ii), concerning food and food ingredients, is amended to read as follows:

<< AR ST § 26-52-317 >>

(ii) The ~~director~~ **secretary** shall make the determination under subdivision (a)(1)(C)(i) of this section on a monthly basis following the determination that the conditions under subdivision (a)(1)(A) of this section have been met.

SECTION 3836. The introductory language of Arkansas Code § 26-52-317(a)(2)(A), concerning food and food ingredients, is amended to read as follows:

<< AR ST § 26-52-317 >>

(2)(A) ~~Beginning July 1, 2013, the director~~ **The secretary** shall make a monthly determination as to whether the aggregate amount of deductions from net general revenues attributable to the following during the most recently ended six-month consecutive period, as compared with the same six-month period in the prior year, has declined by thirty-five million dollars (\$35,000,000) or more:

SECTION 3837. Arkansas Code § 26-52-317(a)(2)(B), concerning food and food ingredients, is amended to read as follows:

<< AR ST § 26-52-317 >>

(B)(i) In making the determination in this subdivision (a)(2), the ~~director~~ **secretary** shall consider all economic factors existing at the time of the determination that could potentially affect the decline in the aggregate amount of deductions, including without limitation pending litigation.

(ii) If the consideration of additional economic factors under subdivision (a)(2)(B)(i) of this section results in a determination that the decline in the aggregate amount of deductions is not likely to remain at that reduced level, the ~~director~~ **secretary** shall conclude that the conditions in this subdivision (a)(2) have not been met.

SECTION 3838. Arkansas Code § 26-52-317(a)(3), concerning food and food ingredients, is amended to read as follows:

<< AR ST § 26-52-317 >>

(3) When the ~~director~~ **secretary** finds that all of the conditions in either subdivision (a)(1) of this section or subdivision (a)(2) of this section have been met, then the gross receipts or gross proceeds taxes levied under subsection (c) of this

section shall be levied at the rate of zero percent (0%) on the sale of food and food ingredients beginning on the first day of the calendar quarter that is at least thirty (30) days following the determination of the ~~director~~ **secretary**.

SECTION 3839. Arkansas Code § 26–52–317(c)(1)(A)–(C), concerning food and food ingredients, are amended to read as follows:

<< AR ST § 26–52–317 >>

(A) Seventy-six and six-tenths percent (76.6%) of the taxes, interest, penalties, and costs received by the ~~director~~ **secretary** under this subdivision (c)(1) shall be deposited as general revenues;

(B) Eight and five-tenths percent (8.5%) of the taxes, interest, penalties, and costs received by the ~~director~~ **secretary** under this subdivision (c)(1) shall be deposited into the Property Tax Relief Trust Fund; and

(C) Fourteen and nine-tenths percent (14.9%) of the taxes, interest, penalties, and costs received by the ~~director~~ **secretary** under this subdivision (c)(1) shall be deposited into the Educational Adequacy Fund.

SECTION 3840. Arkansas Code § 26–52–318(a)(21), concerning heavy equipment, is amended to read as follows:

<< AR ST § 26–52–318 >>

(21) Any other equipment determined by the ~~Director~~ **Secretary** of the Department of Finance and Administration to be heavy equipment.

SECTION 3841. Arkansas Code § 26–52–319(a)(2)(A)–(C), concerning natural gas and electricity used by manufacturers, are amended to read as follows:

<< AR ST § 26–52–319 >>

(A) Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall be deposited as general revenues;

(B) Eight and five-tenths percent (8.5%) of the tax, interest, penalties, and costs received by the ~~director~~ **secretary** shall be deposited into the Property Tax Relief Trust Fund; and

(C) Fourteen and nine-tenths percent (14.9%) of the tax, interest, penalties, and costs received by the ~~director~~ **secretary** shall be deposited into the Educational Adequacy Fund.

SECTION 3842. Arkansas Code § 26–52–319(e) and (f), concerning natural gas and electricity used by manufacturers, are amended to read as follows:

<< AR ST § 26–52–319 >>

(e) Before the sale of natural gas or electricity at the reduced excise tax rate levied in this section, the ~~director~~ **secretary** may require any seller of natural gas or electricity to obtain a certificate from the consumer, in the form prescribed by the ~~director~~ **secretary**, certifying that the manufacturer is eligible to purchase natural gas and electricity at the reduced excise tax rate.

(f) The ~~director~~ **secretary** shall promulgate rules for the proper administration of this section.

SECTION 3843. Arkansas Code § 26–52–320(c), concerning portable toilets and associated services, is amended to read as follows:

<< AR ST § 26–52–320 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules to implement this section.

SECTION 3844. Arkansas Code § 26–52–321(b), concerning fishing guide services, is amended to read as follows:

<< AR ST § 26–52–321 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules to implement this section.

SECTION 3845. Arkansas Code § 26–52–322(c), concerning withdrawals from stock, is amended to read as follows:

<< AR ST § 26–52–322 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules to implement this section.

SECTION 3846. Arkansas Code § 26–52–402(d), concerning tax exemptions for certain machinery and equipment, is amended to read as follows:

<< AR ST § 26–52–402 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules and regulations for the orderly and efficient administration of this section.

SECTION 3847. Arkansas Code § 26–52–403(c), concerning farm equipment and machinery, is amended to read as follows:

<< AR ST § 26–52–403 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules and prescribe forms for claiming the exemption provided by this section.

SECTION 3848. Arkansas Code § 26–52–406(b), concerning prescription drugs and oxygen, is amended to read as follows:

<< AR ST § 26-52-406 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall adopt such appropriate rules and regulations as the ~~director~~ **secretary** deems necessary to assume the effective and efficient administration of the exemption provided for in this section and to prevent abuse thereof.

SECTION 3849. Arkansas Code § 26-52-414(b), concerning products sold to humane societies, is amended to read as follows:

<< AR ST § 26-52-414 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a certificate to the officers of each humane society organized under § 20-19-101, which shall indicate the identity of the humane society officer and the humane society with which the humane society officer is associated. Sales to a humane society shall be exempt from the Arkansas gross receipts tax upon presentation of the certificate.

SECTION 3850. Arkansas Code § 26-52-416(d), concerning electricity sold to low-income households, is amended to read as follows:

<< AR ST § 26-52-416 >>

(d) On forms provided by the ~~Director~~ **Secretary** of the Department of Finance and Administration, a residential customer qualifying for the exemption in this section shall notify the electric utility providing service to the residential customer of the residential customer's intention to claim the exemption in this section.

SECTION 3851. Arkansas Code § 26-52-416(e)(2), concerning electricity sold to low-income households, is amended to read as follows:

<< AR ST § 26-52-416 >>

(2) When a residential customer who has qualified for the exemption in this section has household income exceeding the twelve-thousand-dollar limit, the residential customer is disqualified from the exemption in this section and shall notify the electric utility on forms provided by the ~~director~~ **secretary**. The notice form shall be mailed to the electric utility on or before March 1 of the year following the year the household income exceeds twelve thousand dollars (\$12,000).

SECTION 3852. Arkansas Code § 26-52-416(f)(2), concerning electricity sold to low-income households, is amended to read as follows:

<< AR ST § 26-52-416 >>

(2) The electric utility shall bill a residential customer for the amount of tax due as a result of the residential customer's disqualification under this section and remit the tax to the ~~director~~ **secretary**.

SECTION 3853. Arkansas Code § 26-52-427(f), concerning property purchased for use in the performance of construction contracts, is amended to read as follows:

<< AR ST § 26–52–427 >>

(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 3854. 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:

<< AR ST § 26–52–440 >>

(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 3855. 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:

<< AR ST § 26–52–440 >>

(B) The ~~director~~ **secretary** has issued an exemption certificate to the nonprofit organization; and

SECTION 3856. 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:

<< AR ST § 26–52–440 >>

(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 3857. 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:

<< AR ST § 26–52–440 >>

(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 issue an exemption certificate to the nonprofit organization within sixty (60) days after the filing of the statement.

(2) The ~~director~~ **secretary** may revoke the exemption certificate at any time after it is issued if the ~~director~~ **secretary** determines that the nonprofit organization is unable to satisfy the conditions under subdivision (c)(2) of this section prior to January 1, 2013.

(3) After filing the statement required under subdivision (c)(2) of this section, if the ~~director~~ **secretary** determines that the nonprofit organization has not met the conditions under subdivision (c)(2) of this section, the ~~director~~ **secretary** shall revoke the exemption certificate of the nonprofit organization.

(4) If the nonprofit organization fails to file the statement described in subdivision (c)(2) of this section on or prior to June 30, 2013, the ~~director~~ **secretary** shall revoke the exemption certificate.

(5) Revocation by the ~~director~~ **secretary** of an exemption certificate shall be retroactive to the date of its issuance subject to subsection (e) of this section.

(e)(1) If the ~~director~~ **secretary** revokes the exemption certificate, any tax deficiency, related interest, and applicable penalties due under this chapter, the Arkansas Compensating Tax Act of 1949, § 26–53–101 et seq., or the Arkansas Tax Procedure Act, § 26–18–101 et seq., may be assessed against the nonprofit organization but may not be assessed against a third party that has relied in good faith on the exemption certificate prior to its revocation.

(2) If the ~~director~~ **secretary** revokes the exemption certificate, any tax deficiency, related interest, and applicable penalties assessed against the nonprofit organization shall also include any tax deficiency, related interest, and applicable penalties assessed on purchases made by the nonprofit organization's contractors and agents for the benefit of the nonprofit organization in reliance on the exemption certificate.

(3)(A) Any assessment by the ~~director~~ **secretary** under subdivision (e)(1) of this section or subdivision (e)(2) of this section shall be made in accordance with the Arkansas Tax Procedure Act, § 26–18–101 et seq.

(B) However, the time period for the ~~director~~ **secretary** to make the assessment is extended to whichever of the following occurs first:

(i) Three (3) years from the date the nonprofit organization files the statement under subdivision (c)(2) of this section; or

(ii) July 1, 2016.

(4) The nonprofit organization may contest any assessment or other determination by the ~~director~~ **secretary** in accordance with the Arkansas Tax Procedure Act, § 26–18–101 et seq.

SECTION 3858. Arkansas Code § 26–52–441(d), concerning natural gas and electricity used in the manufacturing of tires, is amended to read as follows:

<< AR ST § 26–52–441 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules for the proper administration of this section.

SECTION 3859. Arkansas Code § 26–52–446(d) and (e), concerning grain drying and storage facilities, are amended to read as follows:

<< AR ST § 26–52–446 >>

(d) Before allowing the exemption of a utility under this section, the ~~Director~~ **Secretary** of the Department of Finance and Administration may require a seller of a utility to obtain a certificate from the taxpayer in the form prescribed by the ~~director~~ **secretary**, certifying that the taxpayer is eligible for the exemption.

(e) The ~~director~~ **secretary** shall promulgate rules for the proper administration of this section.

SECTION 3860. Arkansas Code § 26–52–450(d) and (e), concerning utilities used for qualifying agricultural structures and qualifying aquaculture and horticulture equipment, are amended to read as follows:

<< AR ST § 26-52-450 >>

(d) Before allowing the exemption of a utility under this section, the ~~Director~~ **Secretary** of the Department of Finance and Administration may require a seller of a utility to obtain a certificate from the taxpayer in the form prescribed by the ~~director~~ **secretary**, certifying that the taxpayer is eligible for the exemption.

(e) The ~~director~~ **secretary** shall promulgate rules for the proper administration of this section.

SECTION 3861. Arkansas Code § 26-52-501(a)(2), concerning preparation of returns and payment of taxes, is amended to read as follows:

<< AR ST § 26-52-501 >>

(2) When a taxpayer becomes liable to file a report with the ~~Director~~ **Secretary** of the Department of Finance and Administration, the taxpayer must continue to file the report, even though no tax is due, until such time as the taxpayer notifies the ~~director~~ **secretary**, in writing, that the taxpayer is no longer liable for the report.

SECTION 3862. Arkansas Code § 26-52-501(b), concerning preparation of returns and payment of taxes, is amended to read as follows:

<< AR ST § 26-52-501 >>

(b)(1) For the purpose of ascertaining the amount of tax payable under this chapter, it shall be the duty of all taxpayers on or before the twentieth day of each month to deliver to the ~~director~~ **secretary**, upon forms prescribed and furnished by the ~~director~~ **secretary**, returns showing the total tax due derived from all taxable sales during the preceding calendar month.

(2) The returns shall show such further information as the ~~director~~ **secretary** may require to enable the ~~director~~ **secretary** to compute correctly and collect the tax levied.

(3) Whether an individual, corporation, partnership, limited liability company, or other entity, every taxpayer shall file a single report combining all taxes due derived from sales made from all Arkansas locations of the taxpayer's business which are registered and permitted with the ~~director~~ **secretary** under the same federal employer's identification number or Social Security number.

SECTION 3863. Arkansas Code § 26-52-501(e), concerning preparation of returns and payment of taxes, is amended to read as follows:

<< AR ST § 26-52-501 >>

(e) The taxpayer shall compute and remit to the ~~director~~ **secretary** the required tax due for the preceding calendar month, with the remittance of the tax to accompany the returns required in this subchapter.

SECTION 3864. Arkansas Code § 26-52-501(h)-(j), concerning preparation of returns and payment of taxes, are amended to read as follows:

<< AR ST § 26-52-501 >>

(h) When the average amount of tax for which the taxpayer is liable for the previous fiscal year beginning on July 1 and ending on June 30 does not exceed one hundred dollars (\$100) per month, the ~~director~~ **secretary** may notify the taxpayer that a quarterly report and remittance in lieu of a monthly report may be made on or before July 20, October 20, January 20, and April 20 of each year for the preceding three-month period.

(i) When the average amount of tax for which the taxpayer is liable for the previous fiscal year beginning on July 1 and ending on June 30 does not exceed twenty-five dollars (\$25.00) per month, the ~~director~~ **secretary** may notify the taxpayer that a yearly report and remittance in lieu of a monthly report may be made on or before January 20 of each year for the preceding twelve-month period.

(j) The ~~director~~ **secretary** may establish by regulation separate requirements for filing reports and returns and paying the tax levied under this chapter for taxpayers whose principal line of business does not include the retail selling of tangible personal property, specified digital products, or a digital code or performing taxable services.

SECTION 3865. Arkansas Code § 26–52–502 is amended to read as follows:

<< AR ST § 26–52–502 >>

26–52–502. Tax return on basis of cash actually received.

(a) Any person taxable under this chapter doing business wholly or partly on a credit basis may make application to the ~~Director~~ **Secretary** of the Department of Finance and Administration for permission to prepare his or her returns on the basis of cash actually received.

(b) The application shall be granted by the ~~director~~ **secretary** under such rules and regulations as the ~~director~~ **secretary** may prescribe.

(c) Any person making the application shall be taxable on all moneys collected during the taxable period.

SECTION 3866. Arkansas Code § 26–52–503(a) and (b), concerning a discount for early payment of taxes, are amended to read as follows:

<< AR ST § 26–52–503 >>

(a) At the time of transmitting the returns required under this chapter to the ~~Director~~ **Secretary** of the Department of Finance and Administration, the taxpayer shall remit with the returns to the ~~director~~ **secretary** ninety-eight percent (98%) of the state tax due under this chapter and ninety-eight percent (98%) of the city and county gross receipts taxes collected by the ~~director~~ **secretary**.

(b) Failure of the taxpayer to remit the tax on or before the twentieth day of the applicable month shall cause the taxpayer to forfeit his or her claim to the discount, and the taxpayer shall remit to the ~~director~~ **secretary** one hundred percent (100%) of the amount of tax plus any penalty and interest due.

SECTION 3867. The introductory language of Arkansas Code § 26–52–503(c)(2)(C), concerning a discount for early payment of taxes, is amended to read as follows:

<< AR ST § 26–52–503 >>

(C) The limitations on the state tax discount under this section apply to early payment of city and county gross receipts taxes collected by the ~~director~~ **secretary**, under the following schedule:

SECTION 3868. Arkansas Code § 26–52–505(a), concerning the sales of aircraft, is amended to read as follows:

<< AR ST § 26–52–505 >>

(a) Every person selling new or used aircraft in this state, whether from an established business, under a dealership, as a flying service, or as a private individual, shall obtain and hold a permit as provided in § 26–52–202 and shall make a monthly report and remittance to the ~~Director~~ **Secretary** of the Department of Finance and Administration as provided in this chapter, together with copies of invoices, sales tickets, or bills of sale reflecting the date of all sales of aircraft, the purchaser's name and address, the make, year, model, serial number, and gross sales price of each aircraft, and the amount of tax collected from the purchaser.

SECTION 3869. The introductory language of Arkansas Code § 26–52–508(a), concerning the collection of taxes by sellers or admissions collectors, is amended to read as follows:

<< AR ST § 26–52–508 >>

(a) The tax levied by this chapter shall be paid to the ~~Director~~ **Secretary** of the Department of Finance and Administration by:

SECTION 3870. The introductory language of Arkansas Code § 26–52–509(a)(1), concerning the direct payment of taxes by a consumer or user, is amended to read as follows:

<< AR ST § 26–52–509 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration by agreement with any consumer or user may:

SECTION 3871. Arkansas Code § 26–52–509(a)(3), concerning the direct payment of taxes by a consumer or user, is amended to read as follows:

<< AR ST § 26–52–509 >>

(3) A person who has entered into a limited direct pay agreement under this section and makes purchases of property or services under the authority of that agreement without paying the gross receipts or compensating use taxes due on those purchases is responsible for remitting the proper amount of tax due to the ~~director~~ **secretary** as required by law.

SECTION 3872. Arkansas Code § 26–52–509(b), concerning the direct payment of taxes by a consumer or user, is amended to read as follows:

<< AR ST § 26–52–509 >>

(b) The agreements may be revoked at any time by the ~~director~~ **secretary** whenever the ~~director~~ **secretary** determines that the revocation thereof should be in the best interests of collection of gross receipts taxes.

SECTION 3873. Arkansas Code § 26–52–510(a)(1) and (2), concerning the direct payment of tax by a consumer on new and used motor vehicles, trailers, or semitrailers, are amended to read as follows:

<< AR ST § 26–52–510 >>

(a)(1) On or before the time for registration as prescribed by § 27–14–903(a), a consumer shall pay to the ~~Director~~ **Secretary** of the Department of Finance and Administration the tax levied by this chapter and all other gross receipts taxes levied by the state with respect to the sale of a new or used motor vehicle, trailer, or semitrailer required to be licensed in this state, instead of the taxes being collected by the dealer or seller.

(2) The ~~director~~ **secretary** shall require the payment of the taxes at the time of registration before issuing a license for the new or used motor vehicle, trailer, or semitrailer.

SECTION 3874. Arkansas Code § 26–52–510(a)(4)(B), concerning the direct payment of tax by a consumer on new and used motor vehicles, trailers, or semitrailers, are amended to read as follows:

<< AR ST § 26–52–510 >>

(B) The consumer shall pay to the ~~director~~ **secretary** the penalty under subdivision (a)(4)(A) of this section and the taxes due before the ~~director~~ **secretary** issues a license for the motor vehicle, trailer, or semitrailer.

SECTION 3875. Arkansas Code § 26–52–510(g)(1)(B) and (C), concerning the direct payment of tax by a consumer on new and used motor vehicles, trailers, or semitrailers, are amended to read as follows:

<< AR ST § 26–52–510 >>

(B) If the published loan value exceeds the invoiced price, then the taxpayer must establish to the ~~director's~~ **secretary's** satisfaction that the price reflected on the invoice or other document is true and correct.

(C) If the ~~director~~ **secretary** determines that the invoiced price is not the actual selling price of the vehicle, then the total consideration will be deemed to be the published loan value.

SECTION 3876. Arkansas Code § 26–52–510(g)(2), concerning the direct payment of tax by a consumer on new and used motor vehicles, trailers, or semitrailers, is amended to read as follows:

<< AR ST § 26–52–510 >>

(2)(A) For purposes of this section, the total consideration for a new or used trailer or semitrailer shall be the actual sales price as provided on a bill of sale, invoice, or financing agreement.

(B) The ~~director~~ **secretary** may require additional information to conclusively establish the true selling price of the new or used trailer or semitrailer.

SECTION 3877. The introductory language of Arkansas Code § 26–52–514(a), concerning the determination of total consideration for the sale of a vehicle and an alternative method, is amended to read as follows:

<< AR ST § 26–52–514 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to adopt an alternative method for determining the total consideration for the sale of new or used:

SECTION 3878. The introductory language of Arkansas Code § 26–52–515(a), concerning the refund of sales tax on vehicles returned as defective, is amended to read as follows:

<< AR ST § 26–52–515 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall refund to a manufacturer any state and local sales or use tax which the manufacturer refunded to the consumer, lessee, or lessor pursuant to the Arkansas New Motor Vehicle Quality Assurance Act, § 4–90–401 et seq., or other defective vehicle buy-back agreement, if the manufacturer provides to the Department of Finance and Administration:

SECTION 3879. Arkansas Code § 26–52–515(a)(5), concerning the refund of sales tax on vehicles returned as defective, is amended to read as follows:

<< AR ST § 26–52–515 >>

(5) Such other information as shall be required by the ~~director~~ **secretary**.

SECTION 3880. Arkansas Code § 26–52–515(c)(2), concerning the refund of sales tax on vehicles returned as defective, is amended to read as follows:

<< AR ST § 26–52–515 >>

(2) The ~~director~~ **secretary** shall prescribe the forms and other information necessary to issue the voucher.

SECTION 3881. Arkansas Code § 26–52–517(a), concerning exemption certificates, is amended to read as follows:

<< AR ST § 26–52–517 >>

(a) The sales tax liability for all sales of tangible personal property, specified digital products, digital codes, and taxable services is upon the seller unless the purchaser claims an exemption and the seller obtains identifying information of the purchaser and the reason the purchaser is claiming the exemption in the manner prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3882. Arkansas Code § 26–52–517(b)(1), concerning exemption certificates, is amended to read as follows:

<< AR ST § 26–52–517 >>

(b)(1) When tangible personal property, specified digital products, a digital code, or taxable services are purchased tax-free under subsection (a) of this section and the tangible personal property, specified digital products, digital code, or

taxable service is not resold by the purchaser, the purchaser is solely liable for reporting and remitting to the ~~director~~ **secretary** any tax which should have been paid at the time of purchase.

SECTION 3883. Arkansas Code § 26-52-517(c)(1), concerning exemption certificates, is amended to read as follows:

<< AR ST § 26-52-517 >>

(c)(1) The ~~director~~ **secretary** may provide sale for resale certificates to assist retailers in properly accounting for nontaxable sales of tangible personal property or taxable services.

SECTION 3884. Arkansas Code § 26-52-517(e), concerning exemption certificates, is amended to read as follows:

<< AR ST § 26-52-517 >>

(e) A seller that follows the exemption requirements as prescribed by the ~~director~~ **secretary** is relieved from any tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption.

SECTION 3885. Arkansas Code § 26-52-518(c), concerning special events, is amended to read as follows:

<< AR ST § 26-52-518 >>

(c) Promoters or organizers of special events shall register for sales tax collection with the ~~Director~~ **Secretary** of the Department of Finance and Administration and shall provide to special event vendors special event sales tax reporting forms and any other information which may be required by the ~~director~~ **secretary**.

SECTION 3886. Arkansas Code § 26-52-518(f)(2), concerning special events, is amended to read as follows:

<< AR ST § 26-52-518 >>

(2) Promoters and organizers shall be liable for their failure to remit to the ~~director~~ **secretary** sales taxes which are remitted to them by special event vendors.

SECTION 3887. The introductory language of Arkansas Code § 26-52-519(a), concerning a credit voucher for sales tax on motor vehicles destroyed by catastrophic events, is amended to read as follows:

<< AR ST § 26-52-519 >>

(a) When a consumer has paid sales taxes on a motor vehicle within the last one hundred eighty (180) days and the motor vehicle is destroyed or damaged by some catastrophic event resulting from a natural cause to the extent that the value of the motor vehicle is less than thirty percent (30%) of its retail value, as found in the National Automobile Dealers Association's Official Price Guide, or other source approved by the Office of Motor Vehicle, the consumer may apply to the ~~Director~~ **Secretary** of the Department of Finance and Administration for a sales tax credit voucher in the amount of any state and local sales or use taxes paid on the motor vehicle transaction, if the consumer provides to the Department of Finance and Administration:

SECTION 3888. Arkansas Code § 26-52-519(a)(5), concerning a credit voucher for sales tax on motor vehicles destroyed by catastrophic events, is amended to read as follows:

<< AR ST § 26-52-519 >>

(5) Any other information as shall be required by the ~~director~~ **secretary** as necessary to issue the voucher.

SECTION 3889. Arkansas Code § 26-52-519(c), concerning a credit voucher for sales tax on motor vehicles destroyed by catastrophic events, is amended to read as follows:

<< AR ST § 26-52-519 >>

(c) When a consumer has tendered a trade-in motor vehicle toward the purchase of the vehicle which is credited under subsection (a) of this section, the consumer may apply to the ~~director~~ **secretary** for a credit voucher in the amount of the trade-in vehicle's consideration also.

SECTION 3890. Arkansas Code § 26-52-519(e), concerning a credit voucher for sales tax on motor vehicles destroyed by catastrophic events, is amended to read as follows:

<< AR ST § 26-52-519 >>

(e) The ~~director~~ **secretary** shall prescribe the forms, the nature of satisfactory proof of the vehicle's values, and any other information as is necessary to issue the credit vouchers under this section.

SECTION 3891. Arkansas Code § 26-52-523(c)(1) and (2), concerning a credit or rebate on local sales and use tax, are amended to read as follows:

<< AR ST § 26-52-523 >>

(c)(1) A purchaser that is required by § 26-52-501, § 26-52-509, or § 26-53-125 to file a sales or use tax return may file a claim for a credit or rebate under this section with the ~~Director~~ **Secretary** of the Department of Finance and Administration in connection with the sales or use tax return and offset the amount of credit or rebate claimed against any municipal or county sales or use tax due to be remitted with the return.

(2) A purchaser that qualifies for a credit or rebate under this section and is not required to file a sales or use tax return as provided in subdivision (c)(1) of this section may file a claim for a credit or rebate under this section with the ~~director~~ **secretary**.

SECTION 3892. Arkansas Code § 26-52-523(g), concerning a credit or a rebate on local sales and use tax, is amended to read as follows:

<< AR ST § 26-52-523 >>

(g) The ~~director~~ **secretary** may promulgate rules to administer this section, including without limitation providing an administratively feasible method for filing a claim for a credit or rebate and any necessary forms.

SECTION 3893. Arkansas Code § 26-52-523(i), concerning a credit or a rebate on local sales and use tax, is amended to read as follows:

<< AR ST § 26–52–523 >>

(i) Except as provided in subsection (h) of this section, this section applies to any local sales or use tax collected by the ~~director~~ **secretary** pursuant to any state tax law authorizing a county or municipality to levy a sales or use tax.

SECTION 3894. The introductory language of Arkansas Code § 26–52–802(a), concerning the sale of manufactured homes, modular homes, or mobile homes, is amended to read as follows:

<< AR ST § 26–52–802 >>

(a) Whether from an established business or by a licensed retailer, every person selling manufactured homes or modular homes in this state shall obtain a permit and report and remit to the ~~Director~~ **Secretary** of the Department of Finance and Administration as provided in this chapter, together with:

SECTION 3895. Arkansas Code § 26–53–102(9), concerning the definition of “director” under the Arkansas Compensating Tax Act of 1949, is repealed.

<< AR ST § 26–53–102 >>

(9) “~~Director~~” means the ~~Director~~ of the ~~Department of Finance and Administration~~;

SECTION 3896. Arkansas Code § 26–53–103(a), concerning the administration of the Arkansas Compensating Tax Act of 1949, is amended to read as follows:

<< AR ST § 26–53–103 >>

(a) The administration of this subchapter is vested in and shall be exercised by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3897. Arkansas Code § 26–53–104(a), concerning rules, regulations, and forms under the Arkansas Compensating Tax Act of 1949, is amended to read as follows:

<< AR ST § 26–53–104 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules and regulations and prescribe forms for the proper enforcement of this subchapter.

SECTION 3898. Arkansas Code § 26–53–104(b)(2), concerning rules, regulations, and forms under the Arkansas Compensating Tax Act of 1949, is amended to read as follows:

<< AR ST § 26–53–104 >>

(2) A complete file of all the rules, regulations, and forms shall be kept in the office of the ~~director~~ **secretary**.

SECTION 3899. Arkansas Code § 26–53–105 is amended to read as follows:

<< AR ST § 26–53–105 >>

26-53-105. Sales and Use Tax Section.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall create within the Revenue Division of the Department of Finance and Administration the Sales and Use Tax Section for the collection, enforcement, and administration of the tax levied by this subchapter.

SECTION 3900. Arkansas Code § 26-53-114(d), concerning an exemption for certain machinery and equipment, is amended to read as follows:

<< AR ST § 26-53-114 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules and regulations for the orderly and efficient administration of this section.

SECTION 3901. Arkansas Code § 26-53-121(1), concerning the registration of vendors, is amended to read as follows:

<< AR ST § 26-53-121 >>

(1) Register with the ~~Director~~ **Secretary** of the Department of Finance and Administration;

SECTION 3902. Arkansas Code § 26-53-121(3), concerning the registration of vendors, is amended to read as follows:

<< AR ST § 26-53-121 >>

(3) Provide other information as the ~~director~~ **secretary** may require.

SECTION 3903. Arkansas Code § 26-53-123(b), concerning tax liability, is amended to read as follows:

<< AR ST § 26-53-123 >>

(b) However, a receipt from a vendor authorized by the ~~Director~~ **Secretary** of the Department of Finance and Administration under such rules and regulations as he or she may prescribe to collect the tax imposed given to the purchaser in accordance with the provisions of §§ 26-53-121 and 26-53-122 shall be sufficient to relieve the purchaser from further liability for the tax to which the receipt may refer.

SECTION 3904. Arkansas Code § 26-53-125(a)(1) and (2), concerning the return and payment of taxes, are amended to read as follows:

<< AR ST § 26-53-125 >>

(a)(1)(A) The tax imposed by this subchapter shall be due and payable to the ~~Director~~ **Secretary** of the Department of Finance and Administration monthly on or before the twentieth day of each month except as provided in this subchapter.

(B) When a taxpayer has become liable to file a report with the ~~director~~ **secretary**, the taxpayer must continue to file a report, even though no tax is due, until the taxpayer notifies the ~~director~~ **secretary** in writing that the taxpayer is no longer liable for those reports.

(2) Every vendor selling tangible personal property, specified digital products, a digital code, or taxable services for storage, use, distribution, or consumption in this state shall file with the ~~director~~ **secretary** on or before the twentieth day of each month a sales and use tax return for the preceding monthly period in such form as may be prescribed by the ~~director~~ **secretary**, showing:

(A) The total tax levied by this subchapter due on all tangible personal property, specified digital products, digital codes, or taxable services sold by the vendor during the preceding monthly period, the storage, use, distribution, or consumption of which is subject to the tax levied by this subchapter; and

(B) Such other information as the ~~director~~ **secretary** may deem necessary for the proper administration of this subchapter.

SECTION 3905. Arkansas Code § 26-53-125(b)(1), concerning the return and payment of taxes, is amended to read as follows:

<< AR ST § 26-53-125 >>

(b)(1) Every person purchasing tangible personal property, specified digital products, a digital code, or taxable services of which the storage, use, distribution, or consumption is subject to the tax levied by this subchapter and who has not paid the tax due with respect to the tangible personal property, specified digital products, digital code, or taxable services to a vendor registered in accordance with the provisions of §§ 26-53-121 and 26-53-122 shall file a return with the ~~director~~ **secretary** on or before the twentieth day of each month for the preceding monthly period in such a form as may be prescribed by the ~~director~~ **secretary** showing:

(A) The tax levied by this subchapter due on the tangible personal property, specified digital products, digital code, or taxable services purchased during the preceding monthly period; and

(B) Such other information as the ~~director~~ **secretary** may deem necessary for the proper administration of this subchapter.

SECTION 3906. Arkansas Code § 26-53-125(c)(1), concerning the return and payment of taxes, is amended to read as follows:

<< AR ST § 26-53-125 >>

(1) Upon registration, the ~~director~~ **secretary** shall provide the vendor the required Arkansas returns;

SECTION 3907. Arkansas Code § 26-53-125(d)(1), concerning the return and payment of taxes, is amended to read as follows:

<< AR ST § 26-53-125 >>

(d)(1) When the average amount of tax for which the taxpayer is liable for the previous fiscal year beginning on July 1 and ending on June 30 does not exceed one hundred dollars (\$100) per month, the ~~director~~ **secretary** may notify the taxpayer that a quarterly report and remittance in lieu of a monthly report may be made on or before July 20, October 20, January 20, and April 20 of each year for the preceding three-month period.

SECTION 3908. Arkansas Code § 26–53–126(a)(2), concerning taxes, payment, and collections on new and used motor vehicles, trailers, and semitrailers, is amended to read as follows:

<< AR ST § 26–53–126 >>

(2)(A) On or before the time for registration as prescribed by § 27–14–903(a), the person making application to register the motor vehicle, trailer, or semitrailer shall pay the taxes to the ~~Director~~ **Secretary** of the Department of Finance and Administration instead of the taxes being collected by the dealer or individual seller.

(B) The ~~director~~ **secretary** shall collect the taxes before issuing a license for the motor vehicle, trailer, or semitrailer.

SECTION 3909. Arkansas Code § 26–53–126(a)(4)(B), concerning taxes, payment, and collections on new and used motor vehicles, trailers, and semitrailers, is amended to read as follows:

<< AR ST § 26–53–126 >>

(B) The person making application to register the motor vehicle, trailer, or semitrailer shall pay to the ~~director~~ **secretary** the penalty under subdivision (a)(4)(A) of this section and the taxes due before the ~~director~~ **secretary** issues a license for the motor vehicle, trailer, or semitrailer.

SECTION 3910. Arkansas Code § 26–53–126(f)(1)(B) and (C), concerning taxes, payment, and collections on new and used motor vehicles, trailers, and semitrailers, are amended to read as follows:

<< AR ST § 26–53–126 >>

(B) If the published loan value exceeds the invoiced price, then the taxpayer must establish to the ~~director's~~ **secretary's** satisfaction that the price reflected on the invoice or other document is true and correct.

(C) If the ~~director~~ **secretary** determines that the invoiced price is not the actual selling price of the vehicle, then the total consideration will be deemed to be the published loan value.

SECTION 3911. Arkansas Code § 26–53–126(f)(2)(B), concerning taxes, payment, and collections on new and used motor vehicles, trailers, and semitrailers, is amended to read as follows:

<< AR ST § 26–53–126 >>

(B) The ~~director~~ **secretary** may require additional information to conclusively establish the true selling price of the new or used trailer or semitrailer.

SECTION 3912. Arkansas Code § 26–53–127 is amended to read as follows:

<< AR ST § 26–53–127 >>

26–53–127. Refunds to governmental agencies.

A governmental agency may apply to the ~~Director~~ **Secretary** of the Department of Finance and Administration for refund of the amount of the tax levied and paid upon sales to it for food and food ingredients used for free distribution to the poor and needy or to public penal and eleemosynary institutions, as provided by law.

SECTION 3913. Arkansas Code § 26–53–129 is amended to read as follows:

<< AR ST § 26–53–129 >>

26–53–129. Suits for violations of subchapter — Agent for service.

(a) In all suits brought in any of the courts of this state by the ~~Director~~ **Secretary** of the Department of Finance and Administration against any vendor for any violation of this subchapter, the suits shall be brought thereon in any courts of this state having jurisdiction of the subject matter.

(b)(1) Every vendor shall designate with the ~~director~~ **Secretary of the Department of Finance and Administration** an agent for service within this state for the purpose of enforcing this subchapter.

(2) If a vendor has not designated or shall fail to designate with the ~~director~~ **Secretary of the Department of Finance and Administration** an agent for service within this state, then the Secretary of State shall be deemed the agent for service, or any agent or employee of the vendor within this state shall be deemed agent for service.

SECTION 3914. Arkansas Code § 26–53–131(a)(1)(A)(ii), concerning credit for taxes paid in another state, is amended to read as follows:

<< AR ST § 26–53–131 >>

(ii) Proof of payment of such a tax shall be made according to the rules and regulations promulgated by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3915. Arkansas Code § 26–53–131(a)(1)(B), concerning credit for taxes paid in another state, is amended to read as follows:

<< AR ST § 26–53–131 >>

(B) If the amount of tax paid in another state is less than the amount of Arkansas compensating tax imposed on the property or services by this subchapter, then the taxpayer shall pay to the ~~director~~ **secretary** an amount of Arkansas compensating tax sufficient to make the combined amount of tax paid in the other state and this state equal to the total amount of Arkansas compensating tax that would be due if no tax on the property or services had been paid to any other state.

SECTION 3916. Arkansas Code § 26–53–138(f), concerning exemptions for property purchased for the use and performance of a construction contract, is amended to read as follows:

<< AR ST § 26–53–138 >>

(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 3917. The introductory language of Arkansas Code § 26-53-145(a)(1), concerning food and food ingredients, is amended to read as follows:

<< AR ST § 26-53-145 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall determine the following conditions:

SECTION 3918. Arkansas Code § 26-53-145(a)(1)(C)(ii), concerning food and food ingredients, is amended to read as follows:

<< AR ST § 26-53-145 >>

(ii) The ~~director~~ **secretary** shall make the determination under subdivision (a)(1)(C)(i) of this section on a monthly basis following the determination that the conditions under subdivision (a)(1)(A) of this section have been met.

SECTION 3919. The introductory language of Arkansas Code § 26-53-145(a)(2)(A), concerning food and food ingredients, is amended to read as follows:

<< AR ST § 26-53-145 >>

(2)(A) Beginning July 1, 2013, the ~~director~~ **secretary** shall make a monthly determination as to whether the aggregate amount of deductions from net general revenues attributable to the following during the most recently ended six-month consecutive period, as compared with the same six-month period in the prior year, has declined by thirty-five million dollars (\$35,000,000) or more:

SECTION 3920. Arkansas Code § 26-53-145(a)(2)(B), concerning food and food ingredients, is amended to read as follows:

<< AR ST § 26-53-145 >>

(B)(i) In making the determination in this subdivision (a)(2), the ~~director~~ **secretary** shall consider all economic factors existing at the time of the determination that could potentially affect the decline in the aggregate amount of deductions, including without limitation pending litigation.

(ii) If the consideration of additional economic factors under subdivision (a)(2)(B)(i) of this section results in a determination that the decline in the aggregate amount of deductions is not likely to remain at that reduced level, the ~~director~~ **secretary** shall conclude that the conditions in this subdivision (a)(2) have not been met.

SECTION 3921. Arkansas Code § 26-53-145(a)(3), concerning food and food ingredients, is amended to read as follows:

<< AR ST § 26-53-145 >>

(3) When the ~~director~~ **secretary** finds that all of the conditions in either subdivision (a)(1) or subdivision (a)(2) of this section have been met, then the compensating use taxes levied under subsection (c) of this section shall be levied at the

rate of zero percent (0%) on the sale of food and food ingredients beginning on the first day of the calendar quarter that is at least thirty (30) days following the determination of the ~~director~~ **secretary**.

SECTION 3922. Arkansas Code § 26–53–145(c)(1)(A)–(C), concerning food and food ingredients, are amended to read as follows:

<< AR ST § 26–53–145 >>

(A) Seventy-six and six-tenths percent (76.6%) of the taxes, interest, penalties, and costs received by the ~~director~~ **secretary** under this subdivision (c)(1) shall be deposited as general revenues;

(B) Eight and five-tenths percent (8.5%) of the taxes, interest, penalties, and costs received by the ~~director~~ **secretary** under this subdivision (c)(1) shall be deposited into the Property Tax Relief Trust Fund; and

(C) Fourteen and nine-tenths percent (14.9%) of the taxes, interest, penalties, and costs received by the ~~director~~ **secretary** under this subdivision (c)(1) shall be deposited into the Educational Adequacy Fund.

SECTION 3923. Arkansas Code § 26–53–146(a)(1), concerning the definition of “exemption certification” under the exemptions for qualified museums, is amended to read as follows:

<< AR ST § 26–53–146 >>

(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 3924. Arkansas Code § 26–53–146(a)(3)(B), concerning the exemptions for qualified museums, is amended to read as follows:

<< AR ST § 26–53–146 >>

(B) The ~~director~~ **secretary** has issued an exemption certificate to the nonprofit organization; and

SECTION 3925. The introductory language of Arkansas Code § 26–53–146(c), concerning the exemptions for qualified museums, is amended to read as follows:

<< AR ST § 26–53–146 >>

(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 3926. Arkansas Code § 26–53–146(d) and (e), concerning the exemptions for qualified museums, are amended to read as follows:

<< AR ST § 26–53–146 >>

(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 issue an exemption certificate to the nonprofit organization within sixty (60) days after the filing of the statement.

(2) The ~~director~~ **secretary** may revoke the exemption certificate at any time after it is issued if the ~~director~~ **secretary** determines that the nonprofit organization is unable to satisfy the conditions under subdivision (c)(2) of this section prior to January 1, 2013.

(3) After filing the statement required under subdivision (c)(2) of this section, if the ~~director~~ **secretary** determines that the nonprofit organization has not met the conditions under subdivision (c)(2) of this section, the ~~director~~ **secretary** shall revoke the exemption certificate of the nonprofit organization.

(4) If the nonprofit organization fails to file the statement described in subdivision (c)(2) of this section on or prior to June 30, 2013, the ~~director~~ **secretary** shall revoke the exemption certificate.

(5) Revocation by the ~~director~~ **secretary** of an exemption certificate shall be retroactive to the date of its issuance subject to subsection (e) of this section.

(e)(1) If the ~~director~~ **secretary** revokes the exemption certificate, any tax deficiency, related interest, and applicable penalties due under the Arkansas Gross Receipts Act of 1941, § 26–52–101 et seq., this subchapter, or the Arkansas Tax Procedure Act, § 26–18–101 et seq., may be assessed against the nonprofit organization but may not be assessed against a third party that has relied in good faith on the exemption certificate prior to its revocation.

(2) If the ~~director~~ **secretary** revokes the exemption certificate, any tax deficiency, related interest, and applicable penalties assessed against the nonprofit organization shall also include any tax deficiency, related interest, and applicable penalties assessed on purchases made by the nonprofit organization's contractors and agents for the benefit of the nonprofit organization in reliance on the exemption certificate.

(3)(A) Any assessment by the ~~director~~ **secretary** under subdivision (e)(1) ~~of this section~~ or subdivision (e)(2) of this section shall be made in accordance with the Arkansas Tax Procedure Act, § 26–18–101 et seq.

(B) However, the time period for the ~~director~~ **secretary** to make the assessment is extended to whichever of the following occurs first:

(i) Three (3) years from the date the nonprofit organization files the statement under subdivision (c)(2) of this section; or

(ii) July 1, 2016.

(4) The nonprofit organization may contest any assessment or other determination by the ~~director~~ **secretary** in accordance with the Arkansas Tax Procedure Act, § 26-18-101 et seq.

SECTION 3927. Arkansas Code § 26-53-147(b) and (c), concerning heavy equipment, are amended to read as follows:

<< AR ST § 26-53-147 >>

(b) The purchaser shall pay the use tax to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(c) If the purchaser pays the use tax to an out-of-state dealer, the purchaser shall present proof to the ~~director~~ **secretary** that the Arkansas use tax has been paid.

SECTION 3928. Arkansas Code § 26-53-148(a)(2)(A)-(C), concerning natural gas and electricity used by manufacturers, are amended to read as follows:

<< AR ST § 26-53-148 >>

(A) Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall be deposited as general revenues;

(B) Eight and five-tenths percent (8.5%) of the tax, interest, penalties, and costs received by the ~~director~~ **secretary** shall be deposited into the Property Tax Relief Trust Fund; and

(C) Fourteen and nine-tenths percent (14.9%) of the tax, interest, penalties, and costs received by the ~~director~~ **secretary** shall be deposited into the Educational Adequacy Fund.

SECTION 3929. Arkansas Code § 26-53-148(e) and (f), concerning natural gas and electricity used by manufacturers, are amended to read as follows:

<< AR ST § 26-53-148 >>

(e) Before purchasing any natural gas or electricity at the reduced excise tax rate levied in this section, the ~~director~~ **secretary** may require any seller of natural gas or electricity to obtain a certificate from the consumer, in the form prescribed by the ~~director~~ **secretary**, certifying that the manufacturer is eligible to purchase natural gas and electricity at the reduced excise tax rate.

(f) The ~~director~~ **secretary** shall promulgate rules for the proper administration of this section.

SECTION 3930. Arkansas Code § 26–53–203(b), concerning tangible personal property, specified digital products, or a digital code procured from outside the state for use by contractors, is amended to read as follows:

<< AR ST § 26–53–203 >>

(b) In the case of leases or rentals of tangible personal property, specified digital products, or a digital code by a contractor for use, storage, distribution, or consumption in this state, the contractor shall report and remit the compensating tax on the basis of rental or lease payments made to the lessor of the tangible personal property, specified digital products, or digital code during the term of the lease or rental, which lease rentals shall be in accordance with written contracts between the lessor and the lessee furnished to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3931. Arkansas Code § 26–53–203(c)(1) and (2), concerning tangible personal property, specified digital products, or a digital code procured from outside the state for use by contractors, are amended to read as follows:

<< AR ST § 26–53–203 >>

(c)(1) This subchapter does not apply in respect to the use, consumption, distribution, or storage of tangible personal property, specified digital products, or a digital code as defined in this chapter for use or consumption in this state upon which a like tax equal to or greater than the amount imposed by this subchapter has been paid in another state, the proof of payment of the tax to be according to rules and regulations made by the ~~director~~ **secretary**.

(2) If the amount of tax paid in another state is not at least equal to or greater than the amount of tax imposed by the Arkansas Compensating Tax Act of 1949, § 26–53–101 et seq., then the contractor shall pay to the ~~director~~ **secretary** an amount sufficient to make the tax paid in the other state and this state equal to the total amount of tax due under Arkansas law.

SECTION 3932. Arkansas Code § 26–53–301 is amended to read as follows:

<< AR ST § 26–53–301 >>

26–53–301. Authority of ~~director~~ **secretary to negotiate enforcement agreements with other states.**

(a) When in the judgment of the ~~Director~~ **Secretary** of the Department of Finance and Administration it is necessary in order to secure the collection of any tax, penalties, or interest due or to become due under this subchapter, the ~~director~~ **secretary** may negotiate agreements with the tax departments of other states in respect to the collecting, reporting, payment, and enforcement of tax on sales of tangible personal property, specified digital products, a digital code, or taxable services to residents of Arkansas by a retailer maintaining a place of business in the other state.

(b) In consideration of the agreement, the ~~director~~ **secretary** may make similar agreements for the collecting, reporting, payment, and enforcement of tax as imposed by the other states on sales of tangible personal property, specified digital products, a digital code, or taxable services to residents of other states by retailers maintaining places of business in Arkansas.

SECTION 3933. Arkansas Code § 26–53–302 is amended to read as follows:

<< AR ST § 26–53–302 >>

26–53–302. Arrangements for collection and payment.

The ~~Director~~ **Secretary** of the Department of Finance and Administration, in negotiating an agreement with the tax department of another state, may as part of the agreement provide for reciprocal arrangements whereby the parties collecting the tax in the other state may deduct at the time of making returns to the ~~director~~ **secretary** such percentage of the amount due and accounted for, which may be retained by the parties reporting as an offset against costs of collecting and reporting as is allowed by other states to parties in this state collecting the tax for the other state. No deduction shall be allowed, however, if the amount due is delinquent at the time of the tax payment.

SECTION 3934. Arkansas Code § 26-53-303 is amended to read as follows:

<< AR ST § 26-53-303 >>

26-53-303. Waiver of collection and enforcement of taxes.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration, in negotiating agreements, is authorized by way of compromise to waive the collection and enforcement of taxes on sales to residents of Arkansas made in another state and delivered into Arkansas when the sales were made prior to the effective date of any agreement negotiated.

(b) However, the ~~director~~ **secretary** in any case shall not be authorized to waive payment and enforcement of the tax in another state unless the tax department of the other state waives collection, payment, and enforcement of their tax in this state in the same manner as the tax payment is waived by this state.

SECTION 3935. Arkansas Code § 26-54-109(e), concerning a list to be prepared of all organizing and qualifying corporations, is amended to read as follows:

<< AR ST § 26-54-109 >>

(e) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide the Secretary of State a list of corporations doing business in this state and filing tax reports with the Department of Finance and Administration. However, the ~~director~~ **Secretary of the Department of Finance and Administration** shall not include any information deemed confidential by any other law.

SECTION 3936. Arkansas Code § 26-55-101(b), concerning an exemption for the United States Government's vehicles and refunds, is amended to read as follows:

<< AR ST § 26-55-101 >>

(b) When motor vehicle fuel upon which the tax has been paid is sold to any agent or employee of the United States Government for use in a motor vehicle belonging to the United States Government, and is used in its business exclusively, the wholesaler or dealer may not charge the consumer with the amount of the tax but may claim the refund of the tax under such regulations as the ~~Director~~ **Secretary** of the Department of Finance and Administration may prescribe.

SECTION 3937. Arkansas Code § 26-55-204 is amended to read as follows:

<< AR ST § 26-55-204 >>

26-55-204. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall prescribe and publish such rules and regulations as may be necessary for the enforcement of this subchapter.

SECTION 3938. Arkansas Code § 26-55-207(2), concerning tax exemptions, is amended to read as follows:

<< AR ST § 26-55-207 >>

(2) The sale of motor fuel by a duly licensed distributor for export from the State of Arkansas, and shipped by common carrier FOB destination, to any other state or territory or to any foreign country, or the export of motor fuel by a duly licensed distributor from the State of Arkansas to any other state or territory or to any foreign country, if satisfactory proof of actual exportation of all the motor fuel is furnished at the time and in the manner prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration;

SECTION 3939. Arkansas Code § 26-55-207(4), concerning tax exemptions, is amended to read as follows:

<< AR ST § 26-55-207 >>

(4) The sale of motor fuel for use in propelling airplanes, provided that satisfactory proof is furnished in the manner prescribed by the ~~director~~ **secretary** that the motor fuel is to be used in the propelling of airplanes.

SECTION 3940. Arkansas Code § 26-55-213(a), concerning a distributor's license, requirements, and the penalty for noncompliance, is amended to read as follows:

<< AR ST § 26-55-213 >>

(a) It shall be unlawful for any distributor to receive, use, sell, or distribute any motor fuel or to engage in business within this state unless the distributor is the holder of an uncanceled license issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration to engage in the business or, if the distributor is an agent, commission or otherwise, of a distributor as defined in this subchapter, unless the agent is the holder of a certified duplicate copy of an uncanceled license issued by the ~~director~~ **secretary** to the agent's principal.

SECTION 3941. The introductory language of Arkansas Code § 26-55-214(a), concerning a distributor's license, application, and bond, is amended to read as follows:

<< AR ST § 26-55-214 >>

(a) To procure a distributor's license, every distributor shall file with the ~~Director~~ **Secretary** of the Department of Finance and Administration an application upon oath and in a form prescribed by the ~~director~~ **secretary**, setting forth:

SECTION 3942. Arkansas Code § 26-55-214(b)(1), concerning a distributor's license, application, and bond, is amended to read as follows:

<< AR ST § 26-55-214 >>

(b)(1) Concurrent with the filing of an application for a distributor's license, every distributor shall file with the ~~director~~ **secretary** a bond of the character stipulated and in the amount provided for in § 26-55-222.

SECTION 3943. Arkansas Code § 26-55-214(c), concerning a distributor's license, application, and bond, is amended to read as follows:

<< AR ST § 26-55-214 >>

(c) The ~~director~~ **secretary** shall keep and file all applications and bonds with an alphabetical index together with a record of all licensed distributors.

SECTION 3944. Arkansas Code § 26-55-215 is amended to read as follows:

<< AR ST § 26-55-215 >>

26-55-215. Distributor's license — Issuance of certificate.

The application in proper form having been accepted for filing, the bond having been accepted and approved, and the other conditions and requirements of §§ 26-55-213 and 26-55-214 having been complied with, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue to the distributor a license certificate to transact business as a distributor in the State of Arkansas.

SECTION 3945. Arkansas Code § 26-55-216 is amended to read as follows:

<< AR ST § 26-55-216 >>

26-55-216. Distributor's license — Nonassignable.

The license certificate issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall not be assignable and shall be valid only for the distributor in whose name it was issued.

SECTION 3946. Arkansas Code § 26-55-217(a), concerning the requirement to display a distributor's license, is amended to read as follows:

<< AR ST § 26-55-217 >>

(a) The license certificate issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall be displayed conspicuously in the principal place of business of the distributor in the State of Arkansas.

SECTION 3947. Arkansas Code § 26-55-219 is amended to read as follows:

<< AR ST § 26-55-219 >>

26-55-219. Distributor's license — Refusal.

(a) In the event that any application for a license to transact business as a distributor in the State of Arkansas shall be filed by any person whose license shall at any time have been cancelled for cause by the ~~Director~~ **Secretary** of the Department of Finance and Administration, or in case the ~~director~~ **secretary** shall be of the opinion that the application is not filed in good faith or in the event that the application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been cancelled for cause by the ~~director~~ **secretary**, or for any other valid reason, then and in any of said events the ~~director~~ **secretary**, after a hearing of which the applicant shall have been given five (5) days' notice in writing and at which the applicant shall have the right to appear in person or by counsel and present testimony, shall have and is given the right and authority to refuse to issue to the person a license certificate to transact business as a distributor in the State of Arkansas.

(b) Any distributor who is aggrieved by the action of the ~~director~~ **secretary** in refusing to issue the license applied for, within thirty (30) days from the time of the refusal, may appeal to the circuit court of the county of the distributor's

residence where the distributor shall be entitled to a hearing de novo. An appeal shall lie from the circuit court to the Supreme Court as in other cases now provided by law.

SECTION 3948. Arkansas Code § 26-55-221 is amended to read as follows:

<< AR ST § 26-55-221 >>

26-55-221. Licenses — Persons other than distributors.

Persons, other than distributors, purchasing or otherwise acquiring motor fuel in tank car, tank truck, or cargo lots for sale, distribution, or use within the State of Arkansas, in the discretion of the ~~Director~~ **Secretary** of the Department of Finance and Administration shall also be licensed as set forth in §§ 26-55-213 — 26-55-220 upon compliance with the provisions of §§ 26-55-213 — 26-55-220 and thereupon shall be deemed to be the distributor for all purposes of this subchapter with respect to the motor fuel received while the license remains unrevoked.

SECTION 3949. Arkansas Code § 26-55-222 is amended to read as follows:

<< AR ST § 26-55-222 >>

26-55-222. Bonds — Requirement — Amounts — Waiver.

(a)(1) Every distributor shall file with the ~~Director~~ **Secretary** of the Department of Finance and Administration a surety bond of not less than one and one-half (1 ½) times or one hundred fifty percent (150%) of the prior six (6) months average motor fuel tax due, based upon the gallonage of motor fuel to be sold or distributed as shown by the application for a permit if the applicant has not heretofore been engaged in the business of a distributor as herein defined, or as shown by sales for the previous year if the applicant theretofore has been engaged in the business in this state.

(2) However, no bond shall be filed for less than one thousand dollars (\$1,000).

(3) If the ~~director~~ **secretary** deems it necessary to protect the state in the collection of gasoline taxes, the ~~director~~ **secretary** may require any distributor to post a bond in an amount up to three (3) times or three hundred percent (300%) of the prior six (6) months average motor fuel tax due.

(b)(1) Provided further, the ~~director~~ **secretary** or the ~~director's~~ **secretary's** authorized agent is authorized to waive the posting of bond by any licensed motor fuel distributor that is organized and operating under the laws of Arkansas and that is wholly owned by residents of this state and who has been licensed for a period of at least three (3) years and who has not been delinquent in remitting motor fuel taxes during the three-year period immediately preceding application by the distributor for waiver of bond.

(2) If any motor fuel distributor whose bond has been waived by the ~~director~~ **secretary** or the ~~director's~~ **secretary's** agent as authorized in this subsection subsequently becomes delinquent in remitting motor fuel taxes to the ~~director~~ **secretary**, the ~~director~~ **secretary** or the ~~director's~~ **secretary's** agent may require that the distributor post a bond in the amount required in this section, and the distributor shall not be eligible to petition for a waiver of bond for a period of three (3) years thereafter.

SECTION 3950. Arkansas Code § 26-55-223 is amended to read as follows:

<< AR ST § 26-55-223 >>

26-55-223. Bonds — Deposit or pledge of government obligations as alternative.

In lieu of furnishing a bond executed by a surety company, as hereinbefore provided, any distributor may furnish the distributor's bond or bonds not so executed, if the distributor concurrently therewith deposits and pledges with

the ~~Director~~ **Secretary** of the Department of Finance and Administration direct obligations of the United States or obligations of any agency of the United States fully guaranteed by it or bonds of the State of Arkansas of equal full amount to the amount of the bond required by § 26–55–222, as collateral security for the payment of the bonds.

SECTION 3951. Arkansas Code § 26–55–224 is amended to read as follows:

<< AR ST § 26–55–224 >>

26–55–224. Bonds — Additional bonds — Conditions for requirement.

(a) In the event that upon a hearing, of which the distributor shall be given five (5) days' notice in writing, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall decide that the amount of the existing bond is insufficient to ensure payment to the State of Arkansas of the amount of the tax and any penalties and interest for which the distributor is or may at any time become liable, then the distributor upon the written demand of the ~~director~~ **secretary** shall immediately file an additional bond in the same manner and form with a surety company thereon approved by the ~~director~~ **secretary** in any amount determined by the ~~director~~ **secretary** to be necessary to secure at all times the payment by the distributor to the State of Arkansas of all taxes, penalties, and interest due under the provisions of this subchapter.

(b) If the distributor fails to do so, the ~~director~~ **secretary** shall immediately cancel the license certificate of the distributor.

SECTION 3952. Arkansas Code § 26–55–225 is amended to read as follows:

<< AR ST § 26–55–225 >>

26–55–225. Bonds — New bonds — Conditions for requirement.

(a) In the event that liability upon the bond thus filed by the distributor with the ~~Director~~ **Secretary** of the Department of Finance and Administration shall be discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the ~~director~~ **secretary** any surety on the bond theretofore given shall have become unsatisfactory or unacceptable, then the ~~director~~ **secretary** may require the distributor to file a new bond with a satisfactory surety in the same form and amount, failing which the ~~director~~ **secretary** shall immediately cancel the license certificate of said distributor.

(b) If the new bond is furnished by the distributor as above provided, the ~~director~~ **secretary** shall cancel and surrender the bond of the distributor for which the new bond shall be substituted.

SECTION 3953. Arkansas Code § 26–55–226 is amended to read as follows:

<< AR ST § 26–55–226 >>

26–55–226. Bonds — Release or discharge of surety.

(a)(1) Any surety on any bond furnished by a distributor as provided in §§ 26–55–222 — 26–55–225 shall be released and discharged from any and all liability to the State of Arkansas accruing on the bond after the expiration of sixty (60) days from the date upon which the surety shall have lodged with the ~~Director~~ **Secretary** of the Department of Finance and Administration written request to be released and discharged.

(2) However, the request shall not operate to relieve, release, or discharge the surety from any liability already accrued, or which shall accrue, before the expiration of the sixty-day period.

(b)(1) The ~~director~~ **secretary** shall promptly on receipt of notice of the request notify the distributor who furnished the bond, and unless the distributor on or before the expiration of the sixty-day period files with the ~~director~~ **secretary** a

new bond with a surety company satisfactory to the ~~director~~ **secretary** in the amount and form provided in § 26–55–222, the ~~director~~ **secretary** shall immediately cancel the license of the distributor.

(2) If the new bond is furnished by the distributor as provided above, the ~~director~~ **secretary** shall cancel and surrender the bond of the distributor for which the new bond shall be substituted.

SECTION 3954. Arkansas Code § 26–55–229(a) and (b), concerning tax reports, are amended to read as follows:

<< AR ST § 26–55–229 >>

(a) For the purpose of determining the amount of the tax imposed by this subchapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration may require such supporting documents as the ~~director~~ **secretary** may deem necessary to assure accurate reporting.

(b)(1) The reports shall be filed on forms prescribed by the ~~director~~ **secretary** and shall be filed with the ~~director~~ **secretary** on or before the twenty-fifth day of each calendar month following the reporting month in question.

(2) Once a distributor has become liable to file a monthly report with the ~~director~~ **secretary**, the distributor must continue to file a monthly report, even though no tax is due, until such time as the distributor notifies the ~~director~~ **secretary** in writing that the distributor is no longer liable for monthly reports.

SECTION 3955. Arkansas Code § 26–55–229(c)(4) and (5), concerning tax reports, are amended to read as follows:

<< AR ST § 26–55–229 >>

(4) An itemized statement of the number of gallons of motor fuel sold by the distributor during the preceding calendar month and exempted from the tax by § 26–55–207(1)–(4), separately itemizing the amount of motor fuel sold and claimed to be exempt under each of the subdivisions (1)–(4) of § 26–55–207, and the statement shall furnish such information relating to such sales as shall be required by the ~~director~~ **secretary** and reasonably necessary to the enforcement by the ~~director~~ **secretary** of the provisions of this subchapter;

(5) An itemized statement of the number of gallons of motor fuel sold by the distributor within a border rate area and at the border rate tax, as is permitted by §§ 26–55–210 and 26–55–212, together with such information relating to such sales as shall be required by the ~~director~~ **secretary** and reasonably necessary to the enforcement by the ~~director~~ **secretary** of the provisions of this subchapter;

SECTION 3956. The introductory language of Arkansas Code § 26–55–230(a), concerning the computation and payment of taxes, is amended to read as follows:

<< AR ST § 26–55–230 >>

(a) At the time of filing of each monthly report with the ~~Director~~ **Secretary** of the Department of Finance and Administration, each distributor shall pay to the ~~director~~ **secretary** the full amount of the motor fuel tax for the next-preceding calendar month, which shall be computed as follows:

SECTION 3957. Arkansas Code § 26–55–230(c), concerning the computation and payment of taxes, is amended to read as follows:

<< AR ST § 26-55-230 >>

(c) The ~~director~~ **secretary** by regulation shall provide for the payment and collection of the motor fuel tax when it is due but which under the terms of this subchapter is not required to be remitted by a distributor.

SECTION 3958. Arkansas Code § 26-55-231 is amended to read as follows:

<< AR ST § 26-55-231 >>

26-55-231. Failure to report or pay tax — Revocation or cancellation of license.

(a)(1) If a distributor at any time files a false monthly report of the data or information required by this subchapter or fails, refuses, or neglects to file the monthly report required by this subchapter, or to pay the full amount of the tax as required by this subchapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration may give notice to the distributor of an intention to revoke the license of the distributor.

(2) The distributor shall be entitled to a period of five (5) days after receipt of the notice from the ~~director~~ **secretary**, within which to apply for a hearing before the ~~director~~ **secretary** on the question of having the distributor's license revoked. The ~~director~~ **secretary** shall grant a hearing at such time and place as the ~~director~~ **secretary** may designate of which the distributor shall have five (5) days' advance notice in writing.

(3) After the hearing, at which time the distributor shall be entitled to present evidence and argument of counsel, the ~~director~~ **secretary** shall decide whether the distributor's license shall be revoked.

(4)(A) Upon the issuance of an order revoking the license, the distributor shall be entitled to an appeal to the circuit court in the county where the distributor may do business where the question shall be tried de novo.

(B) An appeal shall lie from the circuit court of that county as in other cases provided by law.

(5) If the distributor fails to apply for a hearing within the time set out in subdivision (a)(2) of this section, the ~~director~~ **secretary** may forthwith cancel the license of the distributor and notify the distributor of the cancellation by registered mail to the last known address of the distributor appearing on the files of the ~~director~~ **secretary**. The ~~director~~ **secretary** shall also notify the surety company on the distributor's bond in like manner.

(b)(1) Upon receipt of a written request from any duly licensed distributor under this subchapter to cancel the license issued to the distributor, the ~~director~~ **secretary** shall have the power to cancel the license effective sixty (60) days from the date of the receipt of the written request.

(2) However, no license shall be cancelled upon the request of any distributor unless and until the distributor prior to the date of the cancellation shall have paid to the State of Arkansas all excise taxes payable under the laws of the State of Arkansas, together with any and all penalties, interest, and fines accruing under any of the provisions of this subchapter, and unless and until the distributor shall have surrendered to the ~~director~~ **secretary** the license certificate theretofore issued to the distributor.

(c) If upon investigation the ~~director~~ **secretary** ascertains and finds that any person to whom a license has been issued under this subchapter is no longer engaged in the receipt, use, or sale of motor fuel as a distributor and has not been so engaged for a period of sixty (60) days, the ~~director~~ **secretary** shall have the power to cancel the license by giving the person thirty (30) days' notice of the cancellation mailed to the last known address of the person, in which event the license certificate theretofore issued to the person shall be surrendered to the ~~director~~ **secretary**.

(d) In the event that the license of any distributor shall be cancelled by the ~~director~~ **secretary** as provided in this section and in the further event that the distributor shall have paid to the State of Arkansas all excise taxes due and payable by it under this subchapter, together with any and all penalties accruing under any of the provisions of this subchapter, then the ~~director~~ **secretary** shall cancel and surrender the bond filed by the distributor.

SECTION 3959. Arkansas Code § 26-55-232 is amended to read as follows:

<< AR ST § 26-55-232 >>

26-55-232. Failure to report or pay taxes promptly — Penalties.

(a) When any distributor fails to file its monthly report with the ~~Director~~ **Secretary** of the Department of Finance and Administration on or before the time fixed in this subchapter for the filing thereof, when the distributor fails to submit the data outlined in §§ 26-55-229 and 26-55-230 in the monthly report, or when the distributor fails to pay to the ~~director~~ **secretary** the amount of excise taxes due to the State of Arkansas when the excise taxes are payable, the distributor shall be subject to applicable penalty and interest provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(b)(1) If the excise tax is not paid within sixty (60) days after the date the excise tax is due, then the ~~director~~ **secretary** shall suspend the license of the distributor.

(2)(A) When the ~~director~~ **secretary** issues a notice of proposed assessment to the distributor under § 26-18-403, the ~~director~~ **secretary** may notify the bonding company of the excise tax delinquency.

(B) At the end of the ten-day demand for payment period that begins on the date a final assessment is issued under § 26-18-401, the ~~director~~ **secretary** shall notify the bonding company of the excise tax delinquency and declare the bond forfeited.

SECTION 3960. Arkansas Code § 26-55-234(b)(1), concerning the statements and reports from persons that are not distributors, is amended to read as follows:

<< AR ST § 26-55-234 >>

(b)(1) On or before the twenty-fifth day of each calendar month on forms prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration, the person shall report to the ~~director~~ **secretary** all purchases or other acquisitions and sales or other disposition of motor fuel during the next preceding calendar month giving a record of each tank car, tank truck, or cargo lot delivered to a point within the state and of all motor fuel otherwise delivered to the person.

SECTION 3961. Arkansas Code § 26-55-234(b)(2)(J), concerning the statements and reports from persons that are not distributors, is amended to read as follows:

<< AR ST § 26-55-234 >>

(J) Any other additional information the ~~director~~ **secretary** may require relative to the motor fuel.

SECTION 3962. The introductory language of Arkansas Code § 26-55-234(c), concerning the statements and reports from persons that are not distributors, is amended to read as follows:

<< AR ST § 26-55-234 >>

(c) On or before the twenty-fifth day of each calendar month on forms prescribed by the ~~director~~ **secretary**, the terminal shall report to the ~~director~~ **secretary** all purchases or other acquisitions and sales or other disposition of motor fuel during the next preceding calendar month, which report shall include the following:

SECTION 3963. Arkansas Code § 26-55-234(c)(4)(E), concerning the statements and reports from persons that are not distributors, is amended to read as follows:

<< AR ST § 26-55-234 >>

(E) The person possessing a license from the ~~director~~ **secretary** who requested the removal of the motor fuel from that storage.

SECTION 3964. Arkansas Code § 26-55-234(d), concerning the statements and reports from persons that are not distributors, is amended to read as follows:

<< AR ST § 26-55-234 >>

(d) When any person or terminal purchasing or otherwise acquiring motor fuel by pipeline, in a tank car, tank truck, or cargo lot and selling or otherwise disposing of the motor fuel for delivery in Arkansas and not required by a provision of this subchapter to register as a distributor in motor fuel, fails to submit the person's or terminal's monthly report to the ~~director~~ **secretary** by the twenty-fifth day of each calendar month or when the person or terminal fails to submit in the monthly report the data required by this subchapter, the person or 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 3965. Arkansas Code § 26-55-235(a), concerning the reports from carriers transporting motor fuels, is amended to read as follows:

<< AR ST § 26-55-235 >>

(a) Every railroad company, and every street, suburban, or interurban railroad company, every pipeline company, every water transportation company, and every common carrier transporting motor fuel, kerosene, or other hydrocarbon products, either in interstate or in intrastate commerce, to points within Arkansas, and every person transporting motor fuel or kerosene by whatever manner to a point within the state from any point outside of the state shall report under oath to the ~~Director~~ **Secretary** of the Department of Finance and Administration, on forms prescribed by the ~~director~~ **secretary**, all deliveries of motor fuel, kerosene, or other hydrocarbon products, so made to points within Arkansas.

SECTION 3966. Arkansas Code § 26-55-235(c), concerning the reports from carriers transporting motor fuels, is amended to read as follows:

<< AR ST § 26-55-235 >>

(c) The reports shall also show such additional information relative to shipments of motor fuel as the ~~director~~ **secretary** may require.

SECTION 3967. Arkansas Code § 26–55–236 is amended to read as follows:

<< AR ST § 26–55–236 >>

26–55–236. Failure to file reports, statements, or returns — Falsification — Penalties.

Upon conviction, a person who refuses or neglects to make any statement, report, or return required by this subchapter or who knowingly makes, aids, or assists another person in making a false statement in a return or report required by this subchapter to the ~~Director~~ **Secretary** of the Department of Finance and Administration is guilty of an unclassified misdemeanor and shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000) or imprisonment for a term of not less than thirty (30) days and not more than one (1) year, or both fine and imprisonment.

SECTION 3968. Arkansas Code § 26–55–239 is amended to read as follows:

<< AR ST § 26–55–239 >>

26–55–239. Forms for reports or records.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the authority to prescribe all forms upon which reports shall be made to the ~~director~~ **secretary** or forms of records to be used by distributors.

SECTION 3969. Arkansas Code § 26–55–240(a)(1), concerning the discontinuance or transfer of a business, is amended to read as follows:

<< AR ST § 26–55–240 >>

(a)(1) Whenever a distributor ceases to engage in business as a distributor within the State of Arkansas by reason of the discontinuance, sale, or transfer of the business of the distributor, it shall be the duty of the distributor to notify the ~~Director~~ **Secretary** of the Department of Finance and Administration in writing at least ten (10) days prior to the time the discontinuance, sale, or transfer takes effect.

SECTION 3970. Arkansas Code § 26–55–240(b)(2), concerning the discontinuance or transfer of a business, is amended to read as follows:

<< AR ST § 26–55–240 >>

(2) It shall be the duty of any distributor concurrently with the discontinuance, sale, or transfer to make a report and pay all taxes, interest, and penalties, and to surrender to the ~~director~~ **secretary** the license certificate theretofore issued to the distributor by the ~~director~~ **secretary**.

SECTION 3971. Arkansas Code § 26–55–240(c), concerning the discontinuance or transfer of a business, is amended to read as follows:

<< AR ST § 26–55–240 >>

(c) Unless the notice provided for in subsection (a) of this section shall have been given to the ~~director~~ **secretary** as provided in subsection (a) of this section, the purchaser or transferee shall be liable to the State of Arkansas for the amount of all taxes, penalties, and interest under this subchapter accrued against any distributor selling or transferring

the distributor's business, on the date of the sale or transfer but only to the extent of the value of the property and business acquired from the distributor.

SECTION 3972. Arkansas Code § 26-55-241(b), concerning unpaid taxes, liens on property, and enforcement, is amended to read as follows:

<< AR ST § 26-55-241 >>

(b)(1) The lien may be enforced by the ~~Director~~ **Secretary** of the Department of Finance and Administration by filing a certificate of indebtedness as provided for in § 26-18-701 or by any other legal means.

(2) The action of the ~~director~~ **secretary** in attempting to collect the delinquent taxes by issuing the certificate of indebtedness shall not be construed to be an election of remedies.

SECTION 3973. The introductory language of Arkansas Code § 26-55-242(a), concerning the sale of a distributor's property and the certificate of lien, is amended to read as follows:

<< AR ST § 26-55-242 >>

(a) Neither the sheriff of any county where the property affected is situated nor any receiver, assignee, or other officer shall sell the property or franchise of any person who is a distributor without first filing with the ~~Director~~ **Secretary** of the Department of Finance and Administration a statement containing:

SECTION 3974. Arkansas Code § 26-55-242(b) and (c), concerning the sale of a distributor's property and the certificate of lien, are amended to read as follows:

<< AR ST § 26-55-242 >>

(b) It shall be the duty of the ~~director~~ **secretary**, after receiving notice as provided in subsection (a) of this section, to furnish to the sheriff, receiver, assignee, or other officer having charge of the sale, certified copies of all motor fuel tax, penalties, and interest on file as liens against the person and, in the event that there are no liens, a certificate showing that fact. The certified copies of the certificate shall be publicly read by that officer at and immediately before the sale of the property or franchise of the person.

(c) It shall be the duty of the ~~director~~ **secretary** to furnish to any person applying therefor a certificate showing the amount of all liens for motor fuel tax, penalties, and interest that may be in the files of the ~~director~~ **secretary** against any person under the provisions of this subchapter.

SECTION 3975. Arkansas Code § 26-55-245 is amended to read as follows:

<< AR ST § 26-55-245 >>

26-55-245. Refunds — Taxes erroneously or illegally collected — Lost fuel.

(a) In the event it appears to the ~~Director~~ **Secretary** of the Department of Finance and Administration that any taxes or penalties imposed by this subchapter have been erroneously or illegally collected from any distributor, the ~~director~~ **secretary** shall certify the amount thereof and authorize and permit the distributor to make an equivalent deduction from the distributor's next motor fuel tax payment to the State of Arkansas.

(b) In the event any distributor sustains a loss of motor fuel due to fire, flood, storm, theft, or other causes beyond the distributor's control other than through evaporation, which product has been received as defined by § 26-55-202(13), the ~~director~~ **secretary** shall authorize and permit the distributor to deduct the quantity so lost from the quantity subject to tax on the motor fuel tax report filed for the month in which the loss occurred or any subsequent report filed within a period of one (1) year. However, the same loss may be allowed only one (1) time.

(c)(1) Before the ~~director~~ **secretary** shall certify or authorize any distributor to make any deduction or take any credit on its reports on account of any tax having been erroneously or illegally collected or on account of any loss as provided in subsections (a) and (b) of this section, satisfactory evidence, upon such forms and in such a manner as shall be prescribed by the Revenue Division of the Department of Finance and Administration, shall be submitted to the supervisor of the Motor Fuel Tax Section of the Department of Finance and Administration, who shall determine from the evidence if any deduction or credit is to be allowed.

(2) Thereupon the supervisor of the section shall transmit to the ~~director~~ **secretary** his or her certificate of approval, and the ~~director~~ **secretary** may in his or her discretion allow the deduction or credit in the amount the ~~director~~ **secretary** thinks proper or may reject the deduction or credit altogether.

(3) The rejection or confirmation of the deduction or credit shall be final, and upon the confirmation by the ~~director~~ **secretary**, the deduction or credit shall then be allowed in due course by the supervisor of the section.

SECTION 3976. Arkansas Code § 26-55-247 is amended to read as follows:

<< AR ST § 26-55-247 >>

26-55-247. Confiscation and sale of equipment of persons transporting motor fuel unlawfully.

(a) Any person who knowingly transports or causes to be transported any motor fuel in any manner in violation of the provisions of this subchapter in addition to other penalties and punishment provided for in this subchapter shall be subject to the immediate confiscation of the tank truck or vehicle and the contents therein which are thus unlawfully transported, by the ~~Director~~ **Secretary** of the Department of Finance and Administration or the ~~director's~~ **secretary's**¹⁷ agents.

(b) Unless the operator or owner of the tank truck or vehicle can prove to the satisfaction of the ~~director~~ **secretary** at a hearing for that purpose within ten (10) days that the motor fuel was being transported, transferred, or delivered in accordance with this subchapter or any other act affecting the transportation of motor fuel, and in accordance with any regulations issued pursuant to this subchapter or any other act, the tank truck or vehicle and the contents therein shall be sold by the ~~director~~ **secretary** at auction without any recourse or liability on the ~~director~~ **secretary** or any of the ~~director's~~ **secretary's** agents or the State of Arkansas.

SECTION 3977. Arkansas Code § 26-55-249 is amended to read as follows:

<< AR ST § 26-55-249 >>

26-55-249. Public inspection of records.

The records of the ~~Director~~ **Secretary** of the Department of Finance and Administration pertaining to motor fuel taxes shall at all reasonable times be open to the inspection of the public with the approval of the ~~director~~ **secretary**.

SECTION 3978. Arkansas Code § 26-55-250 is amended to read as follows:

<< AR ST § 26-55-250 >>

26-55-250. Exchange of information among states.

The ~~Director~~ **Secretary** of the Department of Finance and Administration upon request duly received from the officials to whom are intrusted the enforcement of the motor fuel tax laws of any other state shall forward to the officials any information which the ~~director~~ **secretary** may have in his or her possession relative to the manufacture, receipt, sale, use, transportation, or shipment by any person of motor fuel.

SECTION 3979. Arkansas Code § 26-55-403 is amended to read as follows:

<< AR ST § 26-55-403 >>

26-55-403. Director's powers Authority of secretary.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the authority to make, amend, and enforce regulations, to subpoena witnesses and documents, to administer oaths, and to do and perform all other acts the ~~director~~ **secretary** shall deem necessary to carry out the purpose and intent of this subchapter.

SECTION 3980. Arkansas Code § 26-55-405 is amended to read as follows:

<< AR ST § 26-55-405 >>

26-55-405. Refund permits.

(a) No person, firm, or corporation shall secure a refund of tax under this subchapter unless that person is the holder of an unrevoked permit issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration before the purchase of the motor fuel.

(b) The permit shall be numbered and issued annually and shall entitle the holder to make application for refund under this subchapter.

(c) Applications for the permits shall be filed with the ~~director~~ **secretary** on forms prescribed by the ~~director~~ **secretary** and shall contain the same information, so far as applicable, as is required in § 26-55-305 [repealed], and such other information as the ~~director~~ **secretary** may require.

SECTION 3981. Arkansas Code § 26-55-406 is amended to read as follows:

<< AR ST § 26-55-406 >>

26-55-406. Applications for refund.

Applications for refund pursuant to this subchapter shall be sworn to and shall be made to the ~~Director~~ **Secretary** of the Department of Finance and Administration and shall be in the same form and contain the same information, so far as applicable, as is required in § 26-55-301 et seq. [repealed], and in addition, shall contain such other information as may be required by the ~~director~~ **secretary**.

SECTION 3982. Arkansas Code § 26-55-408 is amended to read as follows:

<< AR ST § 26-55-408 >>

26-55-408. Dealers' and sellers' records and reports.

Dealers and sellers of motor fuel shall keep the same records and shall prepare the same invoices and make the same reports to the ~~Director~~ **Secretary** of the Department of Finance and Administration with respect to motor fuel sold to permit holders under this subchapter as is required by § 26-55-301 et seq. [repealed], with respect to agricultural motor fuel sales.

SECTION 3983. Arkansas Code § 26-55-604 is amended to read as follows:

<< AR ST § 26-55-604 >>

26-55-604. Rules and regulations — Audit assistance.

The Director of State Highways and Transportation shall prescribe and promulgate rules and regulations necessary for the proper enforcement of this subchapter with the advice of the Legislative Council, and in any audits conducted by the Arkansas Department of Transportation relating to the Motor Fuel Tax Law, § 26-55-201 et seq., or the Special Motor Fuels Tax Law, § 26-56-101 et seq., or this subchapter or other pertinent laws, may call upon the ~~Director~~ **Secretary** of the Department of Finance and Administration for assistance.

SECTION 3984. Arkansas Code § 26-55-605(a)(1), concerning the import/export load permit required and exceptions, is amended to read as follows:

<< AR ST § 26-55-605 >>

(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 3985. 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:

<< AR ST § 26-55-608 >>

(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 3986. Arkansas Code § 26-55-705 is amended to read as follows:

<< AR ST § 26-55-705 >>

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 as the ~~director~~ **secretary** may require.

(c) The applications must also contain, as a condition to the issuance of the license, an agreement by the applicant to comply with the requirements of the subchapter and the lawful rules and regulations of the ~~director~~ **secretary**.

SECTION 3987. Arkansas Code § 26-55-706 is amended to read as follows:

<< AR ST § 26-55-706 >>

26-55-706. Bond of applicant.

(a) Before any license application shall be approved by the ~~Director~~ **Secretary** of the Department of Finance and Administration, the applicant shall file a bond, with surety satisfactory to the ~~director~~ **secretary**, payable to the State of Arkansas and conditioned upon the applicant's compliance with the provisions of this subchapter and the rules and regulations of the ~~director~~ **secretary**.

(b)(1) The bond shall be in the sum of not less than five hundred dollars (\$500) and not more than twenty thousand dollars (\$20,000), the amount to be fixed in each case by the ~~director~~ **secretary**.

(2) However, the amount of any bond may be increased or decreased within the foregoing limits by the ~~director~~ **secretary** at any time.

(c) No bond shall be cancelled by the surety thereon until the expiration of sixty (60) days after receipt of notice of the cancellation by the ~~director~~ **secretary**, and the cancellation shall have no retroactive effect.

SECTION 3988. Arkansas Code § 26-55-707(a), concerning licenses, issuance, and terms and conditions, is amended to read as follows:

<< AR ST § 26-55-707 >>

(a) Upon approval of the application and bond, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue to the applicant a nontransferable fuel user's license bearing a distinctive number, to remain in full force until surrendered, suspended, or cancelled in the manner provided in this subchapter.

SECTION 3989. Arkansas Code § 26-55-708 is amended to read as follows:

<< AR ST § 26-55-708 >>

26-55-708. Registration of licensee's motor vehicles.

(a)(1) Before any motor vehicle with a gross loaded weight of twenty-six thousand one pounds (26,001 lbs.) or more is operated on the public highways of this state, the operation of which is subject to the tax levied by this subchapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue to each permitted gasoline, diesel, and liquefied petroleum gas user a distinctive marking to be prominently displayed on the passenger door of each vehicle traveling the public highways within this state.

(2) This marking shall be a nontransferable marking which shall be renewed on an annual basis.

(b) Applications for gasoline, diesel, and liquefied petroleum gas users' permits must be on a form prescribed and furnished by the ~~director~~ **secretary**, to include such relevant information as deemed necessary by the ~~director~~ **secretary**, for the proper administration of this subchapter.

(c) The ~~director~~ **secretary** shall maintain a record of the quantity of markings issued each permitted user.

SECTION 3990. Arkansas Code § 26-55-710(a)(1), concerning quarterly mileage reports and tax computation, is amended to read as follows:

<< AR ST § 26-55-710 >>

(a)(1) Every person, firm, or corporation licensed under this subchapter on or before the last day of the month following the end of each calendar quarter shall file with the ~~Director~~ **Secretary** of the Department of Finance and Administration, on forms prescribed by the ~~director~~ **secretary**, a report showing the quantities of gasoline purchased and used in this state during the preceding calendar quarter, together with payment of the tax due thereon.

SECTION 3991. Arkansas Code § 26-55-710(b), concerning quarterly mileage reports and tax computation, is amended to read as follows:

<< AR ST § 26-55-710 >>

(b) If it shall be determined by the quarterly reports filed with the ~~director~~ **secretary** that the interstate user has used more gallons of gasoline in this state than the gasoline tax due thereon has been paid, the interstate user shall remit to the ~~director~~ **secretary** an excise tax of eighteen and one-half cents (18 ½ ¢) per gallon on the gasoline.

SECTION 3992. Arkansas Code § 26-55-710(g)(3), concerning quarterly mileage reports and tax computation, is amended to read as follows:

<< AR ST § 26-55-710 >>

(3) An interstate user who had a total tax liability for motor fuel taxes during the previous calendar year of less than one hundred dollars (\$100) upon application to the ~~director~~ **secretary** may obtain permission to report the interstate user's motor fuel tax liability on an annual basis. The annual report shall be due on or before the last day of the month following the end of each fiscal year.

SECTION 3993. Arkansas Code § 26-55-710(h), concerning quarterly mileage reports and tax computation, is amended to read as follows:

<< AR ST § 26-55-710 >>

(h) The ~~director~~ **secretary** shall prescribe the appropriate forms necessary for the administration of this subchapter. The ~~director~~ **secretary** may make appropriate rules and regulations necessary to ensure the accurate reporting of mileage traveled and gallons used and purchased by the licensed interstate users.

SECTION 3994. Arkansas Code § 26-55-713(a), concerning claims for refunds by nonbonded users, is amended to read as follows:

<< AR ST § 26-55-713 >>

(a) Claims for refunds of motor fuel taxes by nonbonded users of motor fuel or claims for credits for motor fuel taxes shall not be valid unless properly presented upon motor fuel tax forms as promulgated by and as required by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 3995. Arkansas Code § 26-55-713(b)(1), concerning claims for refunds by nonbonded users, is amended to read as follows:

<< AR ST § 26-55-713 >>

(b)(1) The ~~director~~ **secretary** may assess and charge a fee upon all forms furnished by the Revenue Division of the Department of Finance and Administration when those forms pertain to the motor fuel tax laws of this state.

SECTION 3996. Arkansas Code § 26-55-713(c), concerning claims for refunds by nonbonded users, is amended to read as follows:

<< AR ST § 26-55-713 >>

(c) The ~~director~~ **secretary** shall not furnish forms for cash refunds or credits for motor fuel taxes to nonbonded users of motor fuel unless and until the General Assembly provides by law for the issuance of credits and cash refunds to nonbonded users of motor fuel who qualify for the credits or cash refunds or motor fuel taxes.

SECTION 3997. Arkansas Code § 26-55-714(a)(1), concerning interstate users and tax refund procedures, is amended to read as follows:

<< AR ST § 26-55-714 >>

(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 3998. Arkansas Code § 26-55-714(c), concerning interstate users and tax refund procedures, is amended to read as follows:

<< AR ST § 26-55-714 >>

(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 3999. The introductory language of Arkansas Code § 26-55-714(d), concerning interstate users and tax refund procedures, is amended to read as follows:

<< AR ST § 26-55-714 >>

(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 4000. Arkansas Code § 26-55-714(d)(1) and (2), concerning interstate users and tax refund procedures, are amended to read as follows:

<< AR ST § 26-55-714 >>

(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** determines it to be inadequate before approving any claim for refund;

(2) Each interstate user of motor fuels claiming refunds shall maintain adequate records to substantiate each claim for refund, and the ~~director~~ **secretary** may reject any claim for refund if the ~~director~~ **secretary** determines the applicant has not maintained adequate records or has not conformed to the rules and regulations of the department in filing the claim;

SECTION 4001. Arkansas Code § 26-55-719 is amended to read as follows:

<< AR ST § 26-55-719 >>

26-55-719. Records — Preservation — Inspection.

(a) Each person, firm, or corporation subject to this subchapter must maintain and keep for a period of three (3) years records of mileage traveled by vehicles operated in this state, together with inventories, withdrawals, purchases supported by invoices, and all relevant records and papers that may be required by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) The ~~director~~ **secretary** or his or her authorized representative shall be entitled to inspect these records at any time.

SECTION 4002. Arkansas Code § 26-55-803(a) and (b), concerning the requirement for entry slips and the computation taxes, are amended to read as follows:

<< AR ST § 26-55-803 >>

(a) All licensed motor fuel user and distillate special fuel user out-of-state trucks with a gross loaded weight of twenty-six thousand one pounds (26,001 lbs.) or more entering the State of Arkansas at the point of entry shall secure a copy of an entry slip from the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her authorized agent or employee.

(b) The entry slip shall be signed by the ~~director~~ **secretary** or his or her authorized agent or employee, and the entry slip shall also be signed by the driver of the vehicle.

SECTION 4003. Arkansas Code § 26-55-803(d), concerning the requirement for entry slips and the computation taxes, is amended to read as follows:

<< AR ST § 26-55-803 >>

(d) The entry slip shall remain in the vehicle for the remainder of the trip over the highways of this state and shall be produced for the inspection of the ~~director~~ **secretary** or his or her authorized employee or representative, at any point within the state and shall also be produced at the port of exit to the ~~director~~ **secretary** or his or her authorized agent or employee, for determination of any fuel taxes due the state.

SECTION 4004. Arkansas Code § 26-55-804(1)(B) and (C), concerning the payment of taxes, are amended to read as follows:

<< AR ST § 26-55-804 >>

(B) At the time of the purchase of the fuel, the owner or operator of the vehicle shall obtain from the dealer from whom purchased an invoice or sales ticket, or forms approved by the ~~Director~~ **Secretary** of the Department of Finance and Administration, which shall contain the name and address of the seller of the fuel, the name and address of the purchaser, the date of purchase, the amount or quantity and kind of fuel purchased, and the invoice or sales ticket shall remain in the vehicle for the remainder of the trip over the highways of this state.

(C) The invoice or sales ticket shall be preserved and retained by the owner or operator for not less than three (3) years and shall be produced for the inspection and examination of the ~~director~~ **secretary** or his or her authorized agent or employee at any reasonable time and place, either inside or outside this state, upon proper demand for the invoice or sales ticket; or

SECTION 4005. Arkansas Code § 26-55-804(2), concerning the payment of taxes, is amended to read as follows:

<< AR ST § 26-55-804 >>

(2)(A) By the payment of the amount of tax which would be due upon a sufficient quantity of fuel to propel the vehicle over the highways of this state to the ~~director~~ **secretary** or to his or her agent, representative, or employee.

(B) At the time of payment of the tax, the ~~director~~ **secretary** or his or her employee or representative shall issue to the person paying the tax a receipt showing the amount of tax paid, the name and address of the owner or operator of the vehicle, a description of the vehicle, including the license number and state of registration, the point at which the vehicle entered upon the highways of this state, the destination and the place where the vehicle is to leave the highways of this state, and any other information which the ~~director~~ **secretary** may require, which receipt shall be signed by the ~~director~~ **secretary** or his or her agent or representative.

(C) The receipt shall remain in the vehicle for the remainder of the trip over the highways of this state and thereafter shall be preserved and retained by the owner or operator for a period of not less than three (3) years, and shall be produced for the inspection of the ~~director~~ **secretary** or his or her authorized agent or representative, at any reasonable time and place either within or without this state upon proper demand.

SECTION 4006. Arkansas Code § 26-55-901(1)(B), concerning vehicle tank inspections, is amended to read as follows:

<< AR ST § 26-55-901 >>

(B) Otherwise, “compartment” means any one (1) of those subdivisions of a tank designed to hold petroleum products, unless otherwise provided by the ~~Director~~ **Secretary** of the Department of Finance and Administration by regulations adopted pursuant to § 26–55–903.

SECTION 4007. Arkansas Code § 26–55–1004(a)(1), concerning the disposition of revenues, is amended to read as follows:

<< AR ST § 26–55–1004 >>

(a)(1) All taxes, interest, penalties, and costs received by the ~~Director~~ **Secretary** of the Department of Finance and Administration from the additional taxes and fees levied by this subchapter shall be classified as special revenues and shall be deposited into the State Treasury.

SECTION 4008. Arkansas Code § 26–55–1101 is amended to read as follows:

<< AR ST § 26–55–1101 >>

26–55–1101. Definition.

As used in this subchapter, “~~director~~ **secretary**” means the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her authorized agent.

SECTION 4009. Arkansas Code § 26–55–1102(a), concerning the authority of the Director of the Department of Finance and Administration to enter into fuel tax agreements, audits not precluded, and the identification of decal cost, is amended to read as follows:

<< AR ST § 26–55–1102 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to enter into the International Fuel Tax Agreement of July 1987 with jurisdictions outside this state to provide for cooperation and assistance among member jurisdictions in the administration and collection of taxes imposed upon the consumption of all fuels used in vehicles operated or intended to operate interstate. Provided, however, that the agreement shall not be effective until stated and agreed to in writing and filed with the ~~director~~ **secretary**.

SECTION 4010. Arkansas Code § 26–55–1102(c), concerning the authority of the Director of the Department of Finance and Administration to enter into fuel tax agreements, audits not precluded, and the identification of decal cost, is amended to read as follows:

<< AR ST § 26–55–1102 >>

(c) No agreement authorized by this subchapter shall preclude the ~~director~~ **secretary** from auditing the records of any person subject to the provisions of this chapter or the Special Motor Fuels Tax Law, § 26–56–101 et seq.

SECTION 4011. Arkansas Code § 26–55–1301(1), concerning the definition of “director” under the laws governing refunds and motor fuels used by fire departments, is repealed.

<< AR ST § 26–55–1301 >>

(1) “Director” means the Director of the Department of Finance and Administration or any of his or her deputies, employees, or agents;

SECTION 4012. Arkansas Code § 26–55–1303(a), concerning a refund permit, is amended to read as follows:

<< AR ST § 26–55–1303 >>

(a) No fire department shall secure a refund of tax under this subchapter unless the fire department is the holder of an unrevoked permit which was issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration before the purchase of the motor fuel or the distillate special fuel.

SECTION 4013. Arkansas Code § 26–55–1303(c), concerning a refund permit, is amended to read as follows:

<< AR ST § 26–55–1303 >>

(c) An application for the permit shall be filed with the ~~director~~ **secretary** on forms prescribed by the ~~director~~ **secretary** and shall contain such information as the ~~director~~ **secretary** may require.

SECTION 4014. Arkansas Code § 26–55–1303(e), concerning a refund permit, is amended to read as follows:

<< AR ST § 26–55–1303 >>

(e) The refund permit of any person who violates any provision of this subchapter shall be revoked by the ~~director~~ **secretary** and shall not be reissued until two (2) years have elapsed after the date of the revocation.

SECTION 4015. The introductory language of Arkansas Code § 26–55–1304(a), concerning an application for a refund, is amended to read as follows:

<< AR ST § 26–55–1304 >>

(a) The refund permit holder shall file with the ~~Director~~ **Secretary** of the Department of Finance and Administration an application for refund on forms furnished by the ~~director~~ **secretary** which shall include, but not be limited to, the following information:

SECTION 4016. Arkansas Code § 26–55–1304(a)(6), concerning an application for a refund, is amended to read as follows:

<< AR ST § 26–55–1304 >>

(6) Other information as the ~~director~~ **secretary** shall require.

SECTION 4017. Arkansas Code § 26–55–1304(b)(2), concerning an application for a refund, is amended to read as follows:

<< AR ST § 26–55–1304 >>

(2) The application shall be notarized and made to the ~~director~~ **secretary**.

SECTION 4018. Arkansas Code § 26–55–1304(d)(1), concerning an application for a refund, is amended to read as follows:

<< AR ST § 26–55–1304 >>

(d)(1) The ~~director~~ **secretary** shall promulgate a rule establishing the annual date for claiming a refund pursuant to this subchapter.

SECTION 4019. Arkansas Code § 26–55–1305(b)(1), concerning refunds paid from the Gasoline Tax Refund Fund, is amended to read as follows:

<< AR ST § 26–55–1305 >>

(b)(1)(A) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall annually estimate the amount necessary to pay refunds to the users of distillate special fuel who are entitled to refunds with respect to distillate special fuel taxes paid in this state as authorized in this subchapter.

(B) Upon certification by the ~~director~~ **secretary**, the Treasurer of State shall transfer from the gross amount of distillate special fuel taxes collected each month the amount so certified and shall credit the amount to the fund.

SECTION 4020. Arkansas Code § 26–55–1305(e), concerning refunds paid from the Gasoline Tax Refund Fund, is amended to read as follows:

<< AR ST § 26–55–1305 >>

(e) Neither the ~~director~~ **secretary** nor any member or employee of the Department of Finance and Administration shall be held personally liable for making any refund by reason of a fraudulent claim filed as a basis for the refund.

SECTION 4021. Arkansas Code § 26–55–1306(a), concerning the inspection of records kept by a fire department, is amended to read as follows:

<< AR ST § 26–55–1306 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall keep a permanent record by fire department of the amount of refund claimed and paid to each claimant.

SECTION 4022. Arkansas Code § 26–55–1308 is amended to read as follows:

<< AR ST § 26–55–1308 >>

26–55–1308. Director's powers Authority of secretary.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may make, amend, and enforce regulations, subpoena witnesses and documents, administer oaths, and do and perform all other acts necessary to carry out the purpose and intent of this subchapter.

SECTION 4023. Arkansas Code § 26–56–102(1)(F), concerning special motor fuels taxes, is amended to read as follows:

<< AR ST § 26-56-102 >>

(F) Such other information or forms as the ~~Director~~ **Secretary** of the Department of Finance and Administration by regulation may adopt or require to implement the intent of this subchapter;

SECTION 4024. Arkansas Code § 26-56-102(5), concerning the definition of “director” under the laws governing special motor fuels taxes, is repealed.

<< AR ST § 26-56-102 >>

(5) “~~Director~~” means the ~~Director~~ of the Department of Finance and Administration or his or her duly authorized agents;

SECTION 4025. Arkansas Code § 26-56-104 is amended to read as follows:

<< AR ST § 26-56-104 >>

26-56-104. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized and empowered to promulgate such rules and regulations, not inconsistent with this chapter, as the ~~director~~ **secretary** shall deem necessary and desirable to facilitate the collection of the taxes levied in this chapter and to otherwise effectuate the purposes of this chapter, and these rules and regulations shall have the same effect as if specifically set forth in this chapter.

SECTION 4026. Arkansas Code § 26-56-105(b) and (c), concerning the payment of taxes by the Arkansas Department of Transportation, are amended to read as follows:

<< AR ST § 26-56-105 >>

(b) The department shall remit this tax each month to the ~~Director~~ **Secretary** of the Department of Finance and Administration who will distribute the tax as outlined in this chapter.

(c) For purposes of computing this tax, the department shall use its fuel consumption reports and shall file with the ~~director~~ **secretary** an appropriate monthly report stating the gallons used in the department's motor vehicles and the tax due and payable.

SECTION 4027. Arkansas Code § 26-56-201(b)(3), concerning the imposition of taxes and exemptions, is amended to read as follows:

<< AR ST § 26-56-201 >>

(3) Sales of distillate special fuel by a licensed supplier for export from the State of Arkansas when shipped by common carrier FOB destination to any other state or territory or to any foreign country, or the export of distillate special fuel by a licensed supplier from the State of Arkansas to any other state or territory or to any foreign country, if satisfactory proof of actual exportation of all the distillate special fuel is furnished at the time and in the manner prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration;

SECTION 4028. Arkansas Code § 26–56–204(a), concerning licenses and bonds for suppliers and users, is amended to read as follows:

<< AR ST § 26–56–204 >>

(a)(1)(A) No person shall commence operations as a supplier, user, or off-road consumer of distillate special fuel without first procuring a license for that purpose from the ~~Director~~ **Secretary** of the Department of Finance and Administration. The license shall be issued and remain in effect until revoked as provided in this section.

(B)(i) Any person holding or applying for a supplier's license after August 1, 1987, shall make an election to operate either as a pipeline importer or first receiver. Once having made an election in writing filed with the ~~director~~ **secretary**, the election will remain in force until such time as the supplier makes another written election to change the supplier's status.

(ii) The election and any change therein shall take effect on the first month following filing of the election.

(iii) The ~~director~~ **secretary** may promulgate such forms and regulations as may be necessary to ensure uniformity with federal usage of exemption certificates issued for nonhighway diesel purchases.

SECTION 4029. Arkansas Code § 26–56–204(b)(2)(B), concerning licenses and bonds for suppliers and users, is amended to read as follows:

<< AR ST § 26–56–204 >>

(B) A taxable use of distillate special fuel purchased tax-free by an applicant for an annual registration as a user or off-road consumer, in addition to the penal provisions prescribed in this subchapter, at the discretion of the ~~director~~ **secretary** shall forfeit the right of the applicant to purchase distillate special fuel tax-free.

SECTION 4030. Arkansas Code § 26–56–204(c), concerning licenses and bonds for suppliers and users, is amended to read as follows:

<< AR ST § 26–56–204 >>

(c)(1) Every supplier shall file with the ~~director~~ **secretary** a surety bond of not less than one and one-half (1 1/2) times or one hundred fifty percent (150%) of the prior six (6) months average distillate special fuel tax due which is based upon the gallonage of distillate special fuel to be sold or distributed as shown by the application for a license if the applicant has not previously been engaged in the business of a supplier, or as shown by sales for the previous year if the applicant previously has been engaged in the business in this state. However, no bond shall be filed for less than one thousand dollars (\$1,000).

(2) If the ~~director~~ **secretary** deems it necessary to protect the state in the collection of distillate special fuel taxes, the ~~director~~ **secretary** may require any supplier to post a bond in an amount up to three (3) times or three hundred percent (300%) of the prior six (6) months average distillate special fuel tax due.

(3)(A) However, the ~~director~~ **secretary** is authorized to waive the posting of bond by any licensed supplier organized and operating under the laws of Arkansas and wholly owned by residents of this state who has been licensed for a period of at least three (3) years and who has not been delinquent in remitting distillate special fuel taxes during the three-year period immediately preceding application by the supplier for waiver of bond.

(B) If any supplier whose bond has been waived by the ~~director~~ **secretary** as authorized in subdivision (c)(3)(A) of this section, subsequently becomes delinquent in remitting distillate special fuel taxes to the ~~director~~ **secretary**, the ~~director~~ **secretary** may require that the supplier post a bond in the amount required in this section, and the supplier shall not be eligible to petition for a waiver of bond for a period of three (3) years thereafter.

SECTION 4031. Arkansas Code § 26-56-204(d)(1), concerning licenses and bonds for suppliers and users, is amended to read as follows:

<< AR ST § 26-56-204 >>

(d)(1) Each application of an interstate user for a license shall be accompanied by a surety bond of a surety company authorized to do business in this state, in favor of the ~~director~~ **secretary**, satisfactory to the ~~director~~ **secretary**, and in an amount to be fixed by the ~~director~~ **secretary** of not less than one thousand dollars (\$1,000) nor more than fifty thousand dollars (\$50,000), guaranteeing the payment of any and all taxes, penalties, interest, attorney's fees, and costs levied by, accrued, or accruing under this subchapter.

SECTION 4032. Arkansas Code § 26-56-204(e)(2), concerning licenses and bonds for suppliers and users, is amended to read as follows:

<< AR ST § 26-56-204 >>

(2) The bond shall be conditioned upon the prompt filing of true reports and the payment by the supplier or interstate user to the ~~director~~ **secretary** of any and all distillate special fuel taxes which are levied or imposed by the State of Arkansas, together with any and all penalties and interest thereon, and generally upon faithful compliance with the provisions of this subchapter.

SECTION 4033. Arkansas Code § 26-56-204(f)-(i), concerning licenses and bonds for suppliers and users, are amended to read as follows:

<< AR ST § 26-56-204 >>

(f)(1) In the event that liability upon the bond filed pursuant to this section by the supplier or interstate user with the ~~director~~ **secretary** shall be discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the ~~director~~ **secretary** any surety on the bond shall have become unsatisfactory or unacceptable, then the ~~director~~ **secretary** may require the filing of a new bond with a satisfactory surety in the same form and amount; failing which, the ~~director~~ **secretary** shall immediately cancel the license of the supplier or interstate user.

(2) If a new bond shall be furnished, the ~~director~~ **secretary** shall cancel the bonds for which the new bond shall be substituted.

(g) In the event that upon a hearing of which the supplier or interstate user shall be given five (5) days' notice in writing, the ~~director~~ **secretary** shall decide that the amount of the existing bond is insufficient to ensure payment to the State of Arkansas of the amount of the tax and any penalties and interest for which said supplier or interstate user is or may at any time become liable, then the supplier or interstate user upon written demand of the ~~director~~ **secretary** shall immediately file an additional bond in the same manner and form and with a surety company thereon approved by the ~~director~~ **secretary** in any amount determined by the ~~director~~ **secretary** to be necessary to secure at all times the payment to the State of Arkansas of all taxes, penalties, and interest due under the provisions of this section, failing which, the ~~director~~ **secretary** shall immediately cancel the license of the supplier or interstate user.

(h)(1) Any surety on any bond furnished as provided in this section shall be released and discharged from any and all liability to the State of Arkansas accruing on the bond after the expiration of sixty (60) days from the date upon which a surety shall have lodged with the ~~director~~ **secretary** written request to be released and discharged. However, the request shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the sixty-day period.

(2) Upon receipt of notice of the request, the ~~director~~ **secretary** shall promptly notify the supplier or interstate user who furnished the bond, and unless the supplier or interstate user on or before the expiration of the sixty-day period files with the ~~director~~ **secretary** a new bond with a surety company satisfactory to the ~~director~~ **secretary** in the amount and form as provided in this section, the ~~director~~ **secretary** shall immediately cancel the license of that supplier or interstate user.

(3) If a new bond shall be furnished as provided in this section, the ~~director~~ **secretary** shall cancel the bond for which the new bond shall be substituted.

(i) In lieu of furnishing a bond or bonds executed by a surety company as provided in this section, any supplier or interstate user may furnish a bond or other instrument in a form prescribed by the ~~director~~ **secretary** of equal, full amount to the amount of the bond or bonds required by this section, which will provide security or payment of all amounts as described in this section and in compliance with all provisions of this subchapter.

SECTION 4034. Arkansas Code § 26-56-204(k)(2), concerning licenses and bonds for suppliers and users, is amended to read as follows:

<< AR ST § 26-56-204 >>

(2)(A) Should his or her license be revoked, any supplier or user may bring an action against the ~~director~~ **secretary** in the circuit court of the county of his or her domicile within fifteen (15) days of the date of revocation to determine whether or not the supplier or user has in fact violated any of the provisions of this chapter.

(B) If the circuit court determines that the provisions of the law have been violated by the supplier or user, it shall affirm the ~~director's~~ **secretary's** action in revoking the license.

SECTION 4035. Arkansas Code § 26-56-208(a)(1), concerning suppliers' and users' reports and the computation and remittance of taxes, is amended to read as follows:

<< AR ST § 26-56-208 >>

(a)(1) On or before the twenty-fifth day of each calendar month on forms prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration, every supplier shall file with the ~~director~~ **secretary** a report accounting for the distillate special fuel handled during the preceding month.

SECTION 4036. Arkansas Code § 26-56-208(a)(3)(D), concerning suppliers' and users' reports and the computation and remittance of taxes, is amended to read as follows:

<< AR ST § 26-56-208 >>

(D) Such other documents as the ~~director~~ **secretary** requires.

SECTION 4037. The introductory language of Arkansas Code § 26-56-208(b)(1), concerning suppliers' and users' reports and the computation and remittance of taxes, is amended to read as follows:

<< AR ST § 26-56-208 >>

(b)(1) When filing the report and paying the tax to the ~~director~~ **secretary** as required in this section, the supplier shall be entitled to deduct from the total number of gallons upon which the tax levied under this chapter is due, the number of gallons:

SECTION 4038. Arkansas Code § 26-56-208(c)(1), concerning suppliers' and users' reports and the computation and remittance of taxes, is amended to read as follows:

<< AR ST § 26-56-208 >>

(c)(1) On forms prescribed by the ~~director~~ **secretary**, every pipeline company, water transportation company, and common carrier transporting distillate special fuel to points within Arkansas shall report under oath to the ~~director~~ **secretary** all deliveries of distillate special fuel so made to points within Arkansas.

SECTION 4039. Arkansas Code § 26-56-208(c)(2)(C), concerning suppliers' and users' reports and the computation and remittance of taxes, is amended to read as follows:

<< AR ST § 26-56-208 >>

(C) The report shall also show such additional information relative to a shipment of distillate special fuel as the ~~director~~ **secretary** may require.

SECTION 4040. The introductory language of Arkansas Code § 26-56-208(d)(2), concerning suppliers' and users' reports and the computation and remittance of taxes, is amended to read as follows:

<< AR ST § 26-56-208 >>

(2) On or before the twenty-fifth day of each calendar month on forms prescribed by the ~~director~~ **secretary**, the terminal shall report to the ~~director~~ **secretary** all purchases or other acquisitions and sales or other disposition of distillate special fuel during the next-preceding calendar month, which report shall include the following:

SECTION 4041. 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:

<< AR ST § 26-56-208 >>

(v) The person possessing a license from the ~~director~~ **secretary** who requested the removal of the distillate special fuel from that storage.

SECTION 4042. 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:

<< AR ST § 26–56–208 >>

(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 4043. Arkansas Code § 26–56–209(b)(2)(C)(ii), concerning required records, invoices, and the falsification of records, is amended to read as follows:

<< AR ST § 26–56–209 >>

(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 4044. Arkansas Code § 26–56–209(c)(1), concerning required records, invoices, and the falsification of records, is amended to read as follows:

<< AR ST § 26–56–209 >>

(c)(1) Every person who operates a motor vehicle that is equipped to use motor fuels taxable under the Motor Fuel Tax Law, § 26–55–201 et seq., and distillate special fuel interchangeably in the propulsion of the motor vehicle shall carry in the cab compartment of the motor vehicle for inspection by the ~~director~~ **secretary** or his or her representative, not only the counterpart of the serially-numbered invoice required under subsection (b) of this section for the delivery of distillate special fuel into the fuel supply tanks of the motor vehicle but also an invoice or receipt from the seller for each delivery into the fuel supply tanks of the motor vehicle of motor fuels taxable under the Motor Fuel Tax Law, § 26–55–201 et seq., which latter invoice or receipt shall show the same information as to date of delivery, quantity, speedometer or hub meter mileage, and motor vehicle registration number as is required for the invoice covering distillate special fuel.

SECTION 4045. Arkansas Code § 26–56–214(a), concerning interstate users, reports, and the computation of taxes and refunds, is amended to read as follows:

<< AR ST § 26–56–214 >>

(a) Whenever an interstate user of distillate special fuel who is a bonded user of distillate special fuel in all states in which he or she operates has exportations in excess of importations of tax-paid distillate special fuel in the fuel supply tanks of motor vehicles which distillate special fuel was delivered by a supplier into bulk storage facilities of the user within the State of Arkansas, the supplier may make a refund or allow a credit for the amount of the tax upon the excess upon approval by the ~~Director~~ **Secretary** of the Department of Finance and Administration of a statement from the user to the effect that the tax-paid distillate special fuel was exported.

SECTION 4046. Arkansas Code § 26-56-214(b)(2), concerning interstate users, reports, and the computation of taxes and refunds, is amended to read as follows:

<< AR ST § 26-56-214 >>

(2) If it shall be determined by the quarterly report that the interstate user has used distillate special fuel in this state in excess of the number of gallons of the distillate special fuel upon which the Arkansas tax had been paid, the interstate user shall remit to the ~~director~~ **secretary**, at the time of filing the report, an excise tax of eighteen and one-half cents (18 ½ ¢) per gallon of the excess gallonage used.

SECTION 4047. Arkansas Code § 26-56-214(c), concerning interstate users, reports, and the computation of taxes and refunds, is amended to read as follows:

<< AR ST § 26-56-214 >>

(c) The quarterly report required by this subchapter shall be filed on or before the last day of the month following the end of each calendar quarter and shall be made on forms prescribed by the ~~director~~ **secretary** and shall include such information as the ~~director~~ **secretary** may require.

SECTION 4048. Arkansas Code § 26-56-214(d)(1) and (2), concerning interstate users, reports, and the computation of taxes and refunds, are amended to read as follows:

<< AR ST § 26-56-214 >>

(d)(1) For the purpose of determining whether a distillate special fuel user owes tax or is entitled to a credit or refund as provided in subsection (b) of this section, the distillate special fuel user shall file with the ~~director~~ **secretary** a report showing the quantities of special motor fuels used in this state during the preceding calendar quarter. This report shall be due on or before the last day of the month following the end of each calendar quarter.

(2) If it shall be determined by the quarterly report filed with the ~~director~~ **secretary** that the distillate special fuel user has used more gallons of special motor fuel in this state than the special motor fuel tax due thereon has been paid, the distillate special fuel user shall remit to the ~~director~~ **secretary** an excise tax of eighteen and one-half cents (18 ½ ¢) per gallon of special motor fuel.

SECTION 4049. Arkansas Code § 26-56-214(i), concerning interstate users, reports, and the computation of taxes and refunds, is amended to read as follows:

<< AR ST § 26-56-214 >>

(i)(1) The ~~director~~ **secretary** shall prescribe the appropriate forms necessary for the administration of this subchapter.

(2) The ~~director~~ **secretary** may make appropriate rules and regulations necessary to ensure the accurate reporting of the special motor fuel tax.

SECTION 4050. Arkansas Code § 26-56-215(a)(1), concerning interstate users and tax refund procedures, is amended to read as follows:

<< AR ST § 26-56-215 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall quarterly estimate the amount necessary to pay refunds to interstate users of special motor fuels who are entitled to refunds with respect to special motor fuel taxes paid in this state as authorized in § 26-56-214, and upon certification by the ~~director~~ **secretary**, the Treasurer of State shall transfer from the gross amount of special motor fuel taxes collected each month the amount so certified and shall credit the amount 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 4051. Arkansas Code § 26-56-215(c), concerning interstate users and tax refund procedures, is amended to read as follows:

<< AR ST § 26-56-215 >>

(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 the refund.

SECTION 4052. The introductory language of Arkansas Code § 26-56-215(d), concerning interstate users and tax refund procedures, is amended to read as follows:

<< AR ST § 26-56-215 >>

(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 special motor fuels in this state as authorized by law, which rules and regulations shall be in conformance with the following requirements:

SECTION 4053. Arkansas Code § 26-56-215(d)(1) and (2), concerning interstate users and tax refund procedures, are amended to read as follows:

<< AR ST § 26-56-215 >>

(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** determines it to be inadequate before approving any claim for refund;

(2) Each interstate user of motor fuels and special motor fuels claiming refunds shall maintain adequate records to substantiate each claim for refund, and the ~~director~~ **secretary** may reject any claim for refund if the ~~director~~ **secretary** determines the applicant has not maintained adequate records or has not conformed to the rules and regulations of the department in filing the claim therefor;

SECTION 4054. Arkansas Code § 26-56-216 is amended to read as follows:

<< AR ST § 26-56-216 >>

26-56-216. Power to stop, investigate, and impound vehicles — Assessment of tax.

(a) In order to enforce the provisions of this subchapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her authorized representative is empowered to stop any motor vehicle which appears to be operating with distillate special fuel for the purpose of examining the invoices and for other investigative purposes reasonably necessary to determine whether the taxes imposed by this subchapter have been paid, or whether the motor vehicle is being operated in compliance with the provisions of this subchapter.

(b) If after examination or investigation it is determined by the ~~director~~ **secretary** or his or her authorized representative that the tax imposed by this subchapter has not been paid with respect to the fuels being used in the motor vehicle, the ~~director~~ **secretary** or his or her representative shall immediately assess the tax due, together with the penalty hereinafter provided, to the owner of the motor vehicle, and give the owner written notice of the assessment by handing it to the driver of the motor vehicle.

(c) The ~~director~~ **secretary** or his or her representative is empowered to impound any motor vehicle found to be operating in violation of this chapter by a person other than one who has furnished the bond required of users by § 26-56-204(c) until such time as any tax assessed as provided herein has been paid.

SECTION 4055. Arkansas Code § 26-56-217(b)(2)(C) and (D), concerning the separate storage tanks for taxable distillate special fuel and for tax-free storage, are amended to read as follows:

<< AR ST § 26-56-217 >>

(C) Each city or county shall file a report with the ~~Director~~ **Secretary** of the Department of Finance and Administration accounting for the taxable and nontaxable distillate special fuel used and miles driven by each motor vehicle which requires taxable distillate special fuel in such a manner, at such time, and on such forms as shall be prescribed by the ~~director~~ **secretary**.

(D) The ~~director~~ **secretary** may promulgate regulations to establish a system to periodically reconcile the taxable distillate special fuel purchased and actual taxable distillate special fuel used by the city or county.

SECTION 4056. Arkansas Code § 26-56-218(c), concerning bulk sales of distillate special fuels, is amended to read as follows:

<< AR ST § 26-56-218 >>

(c) When a user, dealer, or off-road consumer registration has been revoked and written notice of the revocation has been received by the supplier from the ~~Director~~ **Secretary** of the Department of Finance and Administration, it shall be unlawful for the supplier to make bulk sales or deliveries to the user, dealer, or off-road consumer of distillate special fuel on which the tax has not been paid.

SECTION 4057. Arkansas Code § 26-56-219(b)(2), concerning cargo tank-to-carburetor connection being unlawful and penalties, is amended to read as follows:

<< AR ST § 26-56-219 >>

(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 § 26-56-216.

SECTION 4058. Arkansas Code § 26-56-220(d)(2), concerning unlawful activities regarding the operation of motor vehicles, is amended to read as follows:

<< AR ST § 26-56-220 >>

(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 § 26-56-216.

SECTION 4059. Arkansas Code § 26-56-224(f), concerning fuel used for off-road purposes and the imposition of tax on dyed distillate special fuel, is amended to read as follows:

<< AR ST § 26-56-224 >>

(f) The excise taxes levied by subsection (b) of this section shall be reported and paid on or before the twentieth day of each month by electronic funds transfer as authorized pursuant to § 26-19-101 et seq. on forms to be prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4060. The introductory language of Arkansas Code § 26-56-226(a)(1), concerning the penalty for improper use of dyed distillate special fuel, is amended to read as follows:

<< AR ST § 26-56-226 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration upon finding a motor vehicle using or utilizing dyed distillate special fuel for the purpose of operating that motor vehicle not excepted in § 26-56-225, shall:

SECTION 4061. The introductory language of Arkansas Code § 26-56-226(a)(2), concerning the penalty for improper use of dyed distillate special fuel, is amended to read as follows:

<< AR ST § 26-56-226 >>

(2) Further, if any dyed distillate special fuel is found in any fuel storage tank or fuel storage facility outside of the terminal utilized by the operator of that motor vehicle, or any other person, for the purpose of fueling that motor vehicle, the ~~director~~ **secretary** shall:

SECTION 4062. Arkansas Code § 26-56-226(b)(2), concerning the penalty for improper use of dyed distillate special fuel, is amended to read as follows:

<< AR ST § 26-56-226 >>

(2) The assessments shall be made against the operator or any other person the ~~director~~ **secretary** deems responsible for the usage or utilization of the dyed distillate special fuel in that motor vehicle.

SECTION 4063. The introductory language of Arkansas Code § 26-56-227(b)(1), concerning mixed dyed and undyed distillate special fuel and additional penalties, is amended to read as follows:

<< AR ST § 26-56-227 >>

(b)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration upon finding any fuel supply tank of a motor vehicle, fuel storage tank, or fuel storage facility outside of the terminal containing mixed dyed and undyed distillate special fuel, which fuel is being used or utilized in a motor vehicle or is being stored for ultimate usage or utilization in a motor vehicle not excepted in § 26-56-225 shall:

SECTION 4064. Arkansas Code § 26-56-227(b)(3), concerning mixed dyed and undyed distillate special fuel and additional penalties, is amended to read as follows:

<< AR ST § 26-56-227 >>

(3) The assessments shall be made against the operator of any motor vehicle, or owner or operator of the fuel storage tank or fuel storage facility outside of the terminal, or any other person the ~~director~~ **secretary** deems responsible for the usage or utilization of the distillate special fuel in any motor vehicle involved in the assessment.

SECTION 4065. The introductory language of Arkansas Code § 26-56-228(a)(1), concerning the authority of the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 26-56-228 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the authority to:

SECTION 4066. The introductory language of Arkansas Code § 26-56-228(a)(2), concerning the authority of the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 26-56-228 >>

(2) The ~~director~~ **secretary** shall have the authority to:

SECTION 4067. Arkansas Code § 26-56-228(b)(1)(A), concerning the authority of the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 26-56-228 >>

(b)(1)(A) Any person who shall refuse to allow the ~~director~~ **secretary** to sample, test, and measure the fuel that could be contained in any fuel supply tank of a motor vehicle, or in any fuel storage tank, or in any fuel storage facility outside of the terminal shall be assessed taxes at the total per-gallon tax rates set out in this chapter upon all fuels as determined by the ~~director~~ **secretary** that could be contained in the fuel supply tank, fuel storage tank, or fuel storage facility, if filled to capacity.

SECTION 4068. 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:

<< AR ST § 26-56-228 >>

(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 4069. 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:

<< AR ST § 26-56-228 >>

(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 4070. Arkansas Code § 26-56-229(a)(1), concerning multiple violations of special motor fuels taxes, is amended to read as follows:

<< AR ST § 26-56-229 >>

(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 4071. Arkansas Code § 26-56-231 is amended to read as follows:

<< AR ST § 26-56-231 >>

26-56-231. Rules and regulations.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration, in consultation with the Director of State Highways and Transportation, shall have the authority to make and promulgate rules and regulations to fully implement and enforce the provisions of §§ 26-56-223 — 26-56-230.

(b) Provisions shall be included in the rules and regulations to allow any user enumerated in § 26-56-225, upon proper notice and certification to the ~~Director~~ **Secretary** of the Department of Finance and Administration that dyed distillate special fuel is unavailable to that user at that time, to utilize untaxed, undyed distillate special fuel in motor vehicles belonging to the users.

SECTION 4072. The introductory language of Arkansas Code § 26-56-232(a), concerning electronic reports and electronic funds transfer, is amended to read as follows:

<< AR ST § 26-56-232 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall make all necessary preparations in order that all reports submitted ~~beginning July 1, 1997, and thereafter, or beginning before that date, if possible,~~ by:

SECTION 4073. Arkansas Code § 26-56-232(a)(4), concerning electronic reports and electronic funds transfer, is amended to read as follows:

<< AR ST § 26-56-232 >>

(4) All other persons required to submit any type of reports to the ~~director~~ **secretary** pursuant to those tax laws, shall be submitted by electronic means and to ensure that the reports shall be processed electronically by the Department of Finance and Administration.

SECTION 4074. Arkansas Code § 26-56-232(b), concerning electronic reports and electronic funds transfer, is amended to read as follows:

<< AR ST § 26-56-232 >>

(b) The ~~director~~ **secretary** shall also make and promulgate rules and regulations to ensure that the distributors, suppliers, and alternative fuel suppliers, ~~beginning July 1, 1997, and thereafter, or beginning before that date, if possible,~~ remit all taxes due the state pursuant to those tax laws by electronic funds transfer.

SECTION 4075. Arkansas Code § 26-56-301(b), concerning the levying and imposition of tax and alternative payment of fees, is amended to read as follows:

<< AR ST § 26-56-301 >>

(b) However, in lieu of the gallonage tax levied in this section with respect to liquefied gas special fuels used under this subchapter, except as otherwise provided herein the ~~Director~~ **Secretary** of the Department of Finance and Administration shall require the payment of the fees prescribed in § 26-56-304 in the case of all vehicles required to obtain liquefied gas special fuels user's permits under this subchapter, except licensed liquefied gas special fuels suppliers.

SECTION 4076. Arkansas Code § 26-56-303(b)-(d), concerning suppliers, dealers, licenses, and bonds for liquefied gas special fuel, are amended to read as follows:

<< AR ST § 26-56-303 >>

(b)(1) Application for licenses shall be filed on a form prescribed by ~~Director~~ **the Secretary** of the Department of Finance and Administration and verified by affidavit, and shall show the name, address, and kind of business of the applicant, a designation of the applicant's principal place of business, and such other pertinent information as the ~~director~~ **secretary** may require.

(2) The application must also contain as a condition to the issuance of the license an agreement under oath by the applicant to comply with the requirements of this subchapter and the rules and regulations of the ~~director~~ **secretary**.

(c)(1) Before an application may be approved by the ~~director~~ **secretary**, the applicant shall file a bond with surety satisfactory to the ~~director~~ **secretary**, payable to the State of Arkansas, and conditioned upon the applicant's compliance with the provisions of this subchapter and the rules and regulations of the ~~director~~ **secretary**.

(2) The bond is to be in the sum of not less than five hundred dollars (\$500) and not more than twenty thousand dollars (\$20,000), the amount to be in each case fixed by the ~~director~~ **secretary**. However, the amount of the bond may be increased or decreased within the aforementioned limits by the ~~director~~ **secretary** at any time.

(3) No bond shall be cancelled by the sureties thereon until the expiration of sixty (60) days after receipt of notice of the cancellation by the ~~director~~ **secretary**, and the cancellation shall have no retroactive effect.

(d) Upon approval of the application and bond, the ~~director~~ **secretary** shall issue to the applicant a nontransferable liquefied gas special fuels supplier's license or dealer's license, as the case may be, bearing a distinctive number.

SECTION 4077. Arkansas Code § 26-56-303(f)(2) and (3), concerning suppliers, dealers, licenses, and bonds for liquefied gas special fuel, are amended to read as follows:

<< AR ST § 26-56-303 >>

(2) The application shall be made on a form prescribed by the ~~director~~ **secretary** showing the name, address, and the supplier or dealer license number of the applicant, the location of the station or facility for which the duplicate is applied, and such other pertinent information as the ~~director~~ **secretary** may require.

(3) Upon approval of the application, the ~~director~~ **secretary** shall issue to the applicant a nontransferable duplicate of the liquefied gas special fuels supplier's or dealer's license.

SECTION 4078. Arkansas Code § 26-56-304(b) and (c), concerning users' permits for liquefied gas special fuels, are amended to read as follows:

<< AR ST § 26-56-304 >>

(b) The application must be made on a form prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration, showing the name, address, and user license number or supplier or dealer license number of the applicant, the make, model, and motor number of the vehicle involved, the type of fuel used therein, and such other pertinent information as the ~~director~~ **secretary** may require.

(c) The fuel user's permit shall be obtained annually before the ~~director~~ **secretary** shall register and issue a motor vehicle license for the vehicle.

SECTION 4079. The introductory language of Arkansas Code § 26-56-304(d), concerning users' permits for liquefied gas special fuels, is amended to read as follows:

<< AR ST § 26-56-304 >>

(d)(1) At the time of applying for the permit and prior to the registration and issuance of a motor vehicle license for the vehicle, each applicant except licensed liquefied gas special fuels suppliers shall remit to the ~~director~~ **secretary**, in addition to the regular fee prescribed by law for the registration and licensing of the vehicle, an additional fee in an amount which is determined by the General Assembly, based upon information available from statistical studies of the motor vehicular use of liquefied gas special fuels by various classes of users, as follows:

SECTION 4080. Arkansas Code § 26-56-304(d)(2) and (3), concerning users' permits for liquefied gas special fuels, is amended to read as follows:

<< AR ST § 26-56-304 >>

(2) If the ~~director~~ **secretary** determines that the flat fee provided herein in lieu of the gallonage tax on liquefied gas special fuels is, in the case of common or contract carriers or other vehicles for hire, inadequate to compensate for the gallonage tax, the ~~director~~ **secretary** may require the common or contract carriers or owners of other vehicles for

hire to pay a fee based upon the actual mileage of the common or contract carrier or vehicle for hire for the previous year, the current year, or any other reasonable basis.

(3) The ~~director~~ **secretary** shall establish regulations for computing the fees and for the enforcement of the collection thereof.

SECTION 4081. Arkansas Code § 26-56-305 is amended to read as follows:

<< AR ST § 26-56-305 >>

26-56-305. Users' permits — Transfer.

When a motor vehicle permitted to use liquefied gas special fuels under this subchapter is altered to operate on a fuel other than liquefied gas special fuels or destroyed prior to the expiration of the permit period, the ~~Director~~ **Secretary** of the Department of Finance and Administration upon the request of the motor vehicle owner within ten (10) days of the conversion or destruction and the payment of a two-dollar transfer fee shall transfer the permit for the remainder of the permit period to another motor vehicle operating on liquefied gas special fuels owned by the person.

SECTION 4082. Arkansas Code § 26-56-306(a), concerning users' permits and window decals for liquefied gas special fuel, is amended to read as follows:

<< AR ST § 26-56-306 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate special serially numbered window decals to be issued for motor vehicles for which liquefied gas special fuels user's permits are issued, except motor vehicles of licensed liquefied gas special fuels suppliers, which distinctive window decals shall evidence not only the registration of the motor vehicle but shall evidence the fact that the special permit fee charged under § 26-56-304 has been paid.

SECTION 4083. The introductory language of Arkansas Code § 26-56-308(a), concerning reports and payments of tax by suppliers of liquefied gas special fuels, is amended to read as follows:

<< AR ST § 26-56-308 >>

(a) On or before the twenty-fifth day of each calendar month next following the calendar month for which the report is made, each liquefied gas special fuels supplier shall report to the ~~Director~~ **Secretary** of the Department of Finance and Administration:

SECTION 4084. Arkansas Code § 26-56-308(a)(6), concerning reports and payments of tax by suppliers of liquefied gas special fuels, is amended to read as follows:

<< AR ST § 26-56-308 >>

(6) Such other information as the ~~director~~ **secretary** may require by regulation.

SECTION 4085. Arkansas Code § 26-56-308(c), concerning reports and payments of tax by suppliers of liquefied gas special fuels, is amended to read as follows:

<< AR ST § 26-56-308 >>

(c) Each liquefied gas special fuels supplier at the time of filing the monthly report required by this section shall remit to the ~~director~~ **secretary** any and all taxes due on liquefied gas special fuels covered by the report.

SECTION 4086. The introductory language of Arkansas Code § 26-56-309, concerning reports by dealers of liquefied gas special fuels, is amended to read as follows:

<< AR ST § 26-56-309 >>

Every liquefied gas special fuels dealer on or before the twenty-fifth day of the month shall monthly file a report with the ~~Director~~ **Secretary** of the Department of Finance and Administration for the preceding calendar month showing:

SECTION 4087. Arkansas Code § 26-56-310(a), concerning the discontinuance of a business and the surrender of a license or permit, is amended to read as follows:

<< AR ST § 26-56-310 >>

(a) Whenever any person to whom a liquefied gas special fuels supplier's license, dealer's license, or liquefied gas special fuels user's permit has been issued, discontinues to supply, sell, or use liquefied gas special fuels within the state, the person shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration in writing of that fact within thirty (30) days thereafter and surrender his or her license or permit to the ~~director~~ **secretary**.

SECTION 4088. Arkansas Code § 26-56-311 is amended to read as follows:

<< AR ST § 26-56-311 >>

26-56-311. Revocation of supplier's or dealer's license.

(a) If a licensed liquefied gas special fuels supplier or dealer fails to file any report required by this subchapter, or falsely or fraudulently files a report, or fails to pay the full amount of the tax levied by this subchapter, or if at any time the surety on the licensee's bond becomes unsatisfactory or inaccessible to the ~~Director~~ **Secretary** of the Department of Finance and Administration or the bond is discharged or cancelled, and a new bond is not furnished by the licensee within five (5) days after the demand of the ~~director~~ **secretary**, the ~~director~~ **secretary** may give notice to the licensee of an intention to revoke his or her license.

(b) The licensee shall be entitled to a period of ten (10) days after the mailing of the notice within which to apply for a hearing on the question of having his or her license revoked, and the ~~director~~ **secretary** shall designate a time and place for the hearing, giving the licensee five (5) days' notice thereof.

(c) After the hearing at which the licensee shall be entitled to present evidence and be represented by counsel, the ~~director~~ **secretary** shall determine whether the licensee's license shall be revoked.

(d)(1) Upon the issuance of an order revoking the license, the licensee shall be entitled to appeal to the circuit court in any county in which the licensee may do business, where the question shall be tried de novo, but the ~~director's~~ **secretary's** order shall be affirmed if supported by substantial evidence.

(2) An appeal may be had from the judgment of the circuit court as in other cases as provided by law.

(e)(1) If the licensee fails to apply for a hearing within the prescribed time, the ~~director~~ **secretary** may immediately revoke the license of the licensee and notify the licensee by registered mail, addressed to the last known address of the licensee appearing in the files of the ~~director~~ **secretary**.

(2) The ~~director~~ **secretary** shall also notify the surety company on the licensee's bond in like manner.

SECTION 4089. Arkansas Code § 26-56-312(b), concerning the importation or use of liquefied gas special fuels by an unlicensed person, is amended to read as follows:

<< AR ST § 26-56-312 >>

(b) For the purposes of determining the number of gallons of liquefied gas special fuels consumed in operating on the highways of this state, the liquefied gas special fuels user shall be required to pay to the ~~Director~~ **Secretary** of the Department of Finance and Administration the tax levied by this subchapter on each gallon of liquefied gas special fuels contained in the supply tank of the motor vehicle at the time of entry into the state and upon all liquefied gas special fuels used in this state upon which the tax levied in this subchapter has not been paid.

SECTION 4090. Arkansas Code § 26-56-313(b)(2), concerning purchase of liquefied gas special fuels by an unlicensed person and the payment of taxes, is amended to read as follows:

<< AR ST § 26-56-313 >>

(2) The supplier or dealer shall deliver the original copy to the purchaser and shall retain the duplicate copy for a period of two (2) years for inspection by the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her designated agents.

SECTION 4091. Arkansas Code § 26-56-314 is amended to read as follows:

<< AR ST § 26-56-314 >>

26-56-314. Nonresident users.

If the ~~Director~~ **Secretary** of the Department of Finance and Administration deems it necessary for the proper enforcement and collection of the tax on liquefied gas special fuels used in this state against nonresident users, other than occasional nonresident users, the ~~director~~ **secretary** may require the nonresident users to obtain a permit, post bond, and report and remit the tax in the same manner as is required in this subchapter for liquefied gas special fuels suppliers.

SECTION 4092. Arkansas Code § 26-56-315 is amended to read as follows:

<< AR ST § 26-56-315 >>

26-56-315. Conversion of vehicles for use of liquefied gas special fuels.

(a)(1) Any liquefied gas special fuels dealer, 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 liquefied gas special fuels shall report the conversion to the ~~Director~~ **Secretary** of the Department of Finance and Administration on forms prescribed by the ~~director~~ **secretary** within ten (10) days after the conversion.

(2) If any owner or operator fails to report a conversion to the ~~director~~ **secretary** within the time prescribed above, the person shall be assessed a penalty of fifty dollars (\$50.00) which shall be in addition to any criminal penalty provided in this chapter.

(b) No person shall convert or equip any motor vehicle for the use of liquefied gas special fuels unless the person is licensed to do so by the Liquefied Petroleum Gas Board and has also made application for and obtained a license as a liquefied gas special fuels converter from the ~~director~~ **secretary** and posted a bond in an amount determined by the ~~director~~ **secretary** conditioned that the person will report to the ~~director~~ **secretary** all vehicles so converted by the person as required by this section.

(c) It shall be unlawful for any person to operate any vehicle which has been converted or equipped to use liquefied gas special fuels unless the vehicle has been reported to the ~~director~~ **secretary** and a liquefied gas special fuels user's permit has been obtained therefor as required.

SECTION 4093. Arkansas Code § 26-56-405(b) and (c), concerning the payment of tax by the Arkansas Department of Transportation, are amended to read as follows:

<< AR ST § 26-56-405 >>

(b) For purposes of computing this tax, the ~~department~~ **Arkansas Department of Transportation** shall use its fuel consumption reports and shall file with the ~~Director~~ **Secretary** of the Department of Finance and Administration an appropriate monthly report stating the gallons used in the department's motor vehicles and the tax due and payable.

(c) The department shall remit the tax due each month to the ~~director~~ **secretary**.

SECTION 4094. Arkansas Code § 26-56-504(a)(1), concerning the disposition of revenues, is amended to read as follows:

<< AR ST § 26-56-504 >>

(a)(1) All taxes, interest, penalties, and costs received by the ~~Director~~ **Secretary** of the Department of Finance and Administration from the additional taxes and fees levied by this subchapter shall be classified as special revenues and shall be deposited into the State Treasury.

SECTION 4095. Arkansas Code § 26-56-701(1), concerning the definition of "director" under the laws regarding refunds and motor fuel used by fire departments, is repealed.

<< AR ST § 26-56-701 >>

(1) "~~Director~~" means the ~~Director of the Department of Finance and Administration or any of his or her deputies, employees, or agents;~~

SECTION 4096. Arkansas Code § 26-56-703(a), concerning a refund permit, is amended to read as follows:

<< AR ST § 26-56-703 >>

(a) No fire department shall secure a refund of tax under this subchapter unless the fire department is the holder of an unrevoked permit which was issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration before the purchase of the motor fuel or the distillate special fuel.

SECTION 4097. Arkansas Code § 26-56-703(c), concerning a refund permit, is amended to read as follows:

<< AR ST § 26-56-703 >>

(c) An application for the permit shall be filed with the ~~director~~ **secretary** on forms prescribed by the ~~director~~ **secretary** and shall contain such information as the ~~director~~ **secretary** may require.

SECTION 4098. Arkansas Code § 26-56-703(e), concerning a refund permit, is amended to read as follows:

<< AR ST § 26-56-703 >>

(e) The refund permit of any person who violates any provision of this subchapter shall be revoked by the ~~director~~ **secretary** and shall not be reissued until two (2) years have elapsed after the date of the revocation.

SECTION 4099. The introductory language of Arkansas Code § 26-56-704(a), concerning applications for a refund, is amended to read as follows:

<< AR ST § 26-56-704 >>

(a) The refund permit holder shall file with the ~~Director~~ **Secretary** of the Department of Finance and Administration an application for refund on forms furnished by the ~~director~~ **secretary** which shall include, but not be limited to, the following information:

SECTION 4100. Arkansas Code § 26-56-704(a)(6), concerning applications for a refund, is amended to read as follows:

<< AR ST § 26-56-704 >>

(6) Other information as the ~~director~~ **secretary** shall require.

SECTION 4101. Arkansas Code § 26-56-704(b)(2), concerning applications for a refund, is amended to read as follows:

<< AR ST § 26-56-704 >>

(2) The application shall be notarized and made to the ~~director~~ **secretary**.

SECTION 4102. Arkansas Code § 26-56-704(d)(1), concerning applications for a refund, is amended to read as follows:

<< AR ST § 26-56-704 >>

(d)(1) The ~~director~~ **secretary** shall promulgate a rule establishing the annual date for claiming a refund pursuant to this subchapter.

SECTION 4103. Arkansas Code § 26-56-705(b)(1), concerning a refund paid from the Gasoline Tax Refund Fund, is amended to read as follows:

<< AR ST § 26-56-705 >>

(b)(1)(A) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall annually estimate the amount necessary to pay refunds to the users of distillate special fuel who are entitled to refunds with respect to distillate special fuel taxes paid in this state as authorized in this subchapter.

(B) Upon certification by the director **secretary**, the Treasurer of State shall transfer from the gross amount of distillate special fuel taxes collected each month the amount so certified and shall credit the amount to the fund.

SECTION 4104. Arkansas Code § 26-56-705(e), concerning a refund paid from the Gasoline Tax Refund Fund, is amended to read as follows:

<< AR ST § 26-56-705 >>

(e) Neither the director **secretary** nor any member or employee of the Department of Finance and Administration shall be held personally liable for making any refund by reason of a fraudulent claim filed as a basis for the refund.

SECTION 4105. Arkansas Code § 26-56-706(a), concerning the inspection and records of fire department refunds, is amended to read as follows:

<< AR ST § 26-56-706 >>

(a) The Director **Secretary** of the Department of Finance and Administration shall keep a permanent record by fire department of the amount of refund claimed and paid to each claimant.

SECTION 4106. Arkansas Code § 26-56-708 is amended to read as follows:

<< AR ST § 26-56-708 >>

26-56-708. Director's powers Authority of secretary.

The Director **Secretary** of the Department of Finance and Administration may make, amend, and enforce regulations, subpoena witnesses and documents, administer oaths, and do and perform all other acts necessary to carry out the purpose and intent of this subchapter.

SECTION 4107. Arkansas Code § 26-57-206 is amended to read as follows:

<< AR ST § 26-57-206 >>

26-57-206. Rules.

The Director **Secretary** of the Department of Finance and Administration, the Director of Arkansas Tobacco Control, and the Arkansas Tobacco Control Board may promulgate rules for the proper enforcement of their powers and duties as specifically prescribed by this subchapter.

SECTION 4108. Arkansas Code § 26-57-211(b), concerning the wholesalers payment of taxes, reports, and remittance of taxes in regards to the Arkansas Tobacco Products Tax Act, is amended to read as follows:

<< AR ST § 26-57-211 >>

(b)(1) On or before the fifteenth day of each month, every wholesaler shall file a report for the previous month's tax collections with the Director **Secretary** of the Department of Finance and Administration.

(2) The report shall provide the information prescribed by the director **secretary**.

SECTION 4109. Arkansas Code § 26-57-211(c)(1)(A)(i), concerning the wholesalers payment of taxes, reports, and remittance of taxes in regards to the Arkansas Tobacco Products Tax Act, is amended to read as follows:

<< AR ST § 26-57-211 >>

(c)(1)(A)(i) When the report under subsection (b) of this section is filed, the wholesaler shall remit to the ~~director~~ **secretary** with the report ninety-eight percent (98%) of the tax due for the previous month.

SECTION 4110. Arkansas Code § 26-57-211(c)(1)(B), concerning the wholesalers payment of taxes, reports, and remittance of taxes in regards to the Arkansas Tobacco Products Tax Act, is amended to read as follows:

<< AR ST § 26-57-211 >>

(B) If the stamps deputy fails to remit the tax on or before the twentieth day of each applicable month, the wholesaler forfeits his or her claim to the discount described in subdivision (c)(1)(A) of this section, and the wholesaler shall remit to the ~~director~~ **secretary** one hundred percent (100%) of the amount of tax due, plus any penalty or interest due.

SECTION 4111. Arkansas Code § 26-57-211(d), concerning the wholesalers payment of taxes, reports, and remittance of taxes in regards to the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

<< AR ST § 26-57-211 >>

(d)(1) The ~~director~~ **secretary** may add a penalty of ten percent (10%) of the tax due to the tax due for the failure to file a report or for the failure to remit the taxes at the time required, or for both.

(2) If the ~~director~~ **secretary** determines there has been an attempt to evade the tax, a penalty of not more than fifty percent (50%) of the tax due shall be added to the tax due.

SECTION 4112. Arkansas Code § 26-57-212(a)(1), concerning wholesalers, warehousemen, reports, payment of taxes, and records in regards to the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

<< AR ST § 26-57-212 >>

(a)(1) Every licensed wholesaler and warehouse that handles, receives, stores, sells, and disposes of tobacco products in any manner in this state shall file a report with the ~~Director~~ **Secretary** of the Department of Finance and Administration on or before the fifteenth day of each month.

SECTION 4113. Arkansas Code § 26-57-212(b)(3), concerning wholesalers, warehousemen, reports, payment of taxes, and records in regards to the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

<< AR ST § 26-57-212 >>

(3) Any other information about the purchases and sales as may be prescribed by the ~~director~~ **secretary**.

SECTION 4114. Arkansas Code § 26-57-212(c), concerning wholesalers, warehousemen, reports, payment of taxes, and records in regards to the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

<< AR ST § 26-57-212 >>

(c) All taxes due for the preceding month shall be remitted to the ~~director~~ **secretary** at the time the report is filed.

SECTION 4115. Arkansas Code § 26-57-213(b), concerning invoices in regards to the Arkansas Cigarette or Tobacco Products Excise Tax, is amended to read as follows:

<< AR ST § 26-57-213 >>

(b) Copies of all invoices for the purchase or sale of any tobacco products, vapor products, alternative nicotine products, or e-liquid products shall be retained by each manufacturer, wholesaler, vendor, and retailer for a period of three (3) years subject to examination by the ~~Director~~ **Secretary** of the Department of Finance and Administration and the Director of Arkansas Tobacco Control or their authorized agents upon demand at any time during regular business hours.

SECTION 4116. Arkansas Code § 26-57-215(b)(1), concerning the types of permits and licenses in regards to the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

<< AR ST § 26-57-215 >>

(b)(1) In addition to securing a permit or license under subsection (a) of this section, a manufacturer whose products are sold in this state shall register with the ~~Director~~ **Secretary** of the Department of Finance and Administration. A manufacturer whose products are sold in this state is not required to obtain a dealer's license for an employee operating as the manufacturer's sales representative if the manufacturer holds a license or permit under subsection (a) of this section.

SECTION 4117. Arkansas Code § 26-57-219(c), concerning permits, licenses, and annual privilege tax in regards to the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

<< AR ST § 26-57-219 >>

(c) A permit or license issued under this subchapter shall not be renewed for a permit or license holder who is delinquent more than ninety (90) days on a privilege fee, tax relating to the sale or dispensing of cigarettes or tobacco products, or any other state and local tax due the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4118. 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:

<< AR ST § 26-57-224 >>

(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 4119. 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:

<< AR ST § 26-57-224 >>

(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 4120. Arkansas Code § 26-57-229(c), concerning a licensee as a wholesaler and retailer, is amended to read as follows:

<< AR ST § 26-57-229 >>

(c) Records shall be kept on forms prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4121. 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:

<< AR ST § 26-57-230 >>

(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 4122. 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:

<< AR ST § 26-57-230 >>

(b) All common carriers shall permit their records relating to shipment or receipt of tobacco products, vapor products, alternative nicotine products, or e-liquid products to be examined by the ~~Director~~ **Secretary** of the Department of Finance and Administration, the Director of Arkansas Tobacco Control, or their agents.

(c) A person who fails or refuses to give the statement, reports, or invoices required by this section or who refuses to permit the ~~Director~~ **Secretary** of the Department of Finance and Administration or the Director of Arkansas Tobacco Control to examine the person's records is guilty of a Class C misdemeanor.

SECTION 4123. Arkansas Code § 26-57-232(a)(3), concerning wholesalers, restrictions, and criminal violations in regards to the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

<< AR ST § 26-57-232 >>

(3) The wholesaler before selling, delivering, or otherwise disposing of cigarettes to retailers in this state shall affix stamps of the proper denominations to show that the tax has been paid. The stamp shall be affixed in the manner prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration; and

SECTION 4124. Arkansas Code § 26-57-232(b), concerning wholesalers, restrictions, and criminal violations in regards to the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

<< AR ST § 26-57-232 >>

(b) Any wholesaler who fails or refuses to affix or cancel the stamps or who fails or refuses to keep the records or who fails or refuses to furnish the statements and information or make the reports as required by this subchapter or as prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration and the Director of Arkansas Tobacco Control, or who violates any of the requirements of §§ 26-57-212, 26-57-229, and 26-57-242 is guilty of a violation for the first offense and a Class C misdemeanor for each additional offense.

SECTION 4125. Arkansas Code § 26-57-234(a)(4)(A), concerning retailers, vendors, restrictions, and violations, is amended to read as follows:

<< AR ST § 26-57-234 >>

(4)(A) The retailer shall keep records showing the description and date of the receipt of each lot of tobacco products, vapor products, alternative nicotine products, or e-liquid products, from whom purchased, and when received on the premises, or any other requirements prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4126. Arkansas Code § 26-57-234(a)(5), concerning retailers, vendors, restrictions, and violations, is amended to read as follows:

<< AR ST § 26-57-234 >>

(5) The ~~Director~~ **Secretary** of the Department of Finance and Administration may require retailer reports covering receipts and sales of tobacco products monthly or for any other period; and

SECTION 4127. Arkansas Code § 26-57-234(c), concerning retailers, vendors, restrictions, and violations, is amended to read as follows:

<< AR ST § 26-57-234 >>

(c) A retailer or vendor who fails or refuses to retain in his or her files invoices of tobacco products, vapor products, alternative nicotine products, or e-liquid products, and stamps, or who fails or refuses to furnish the statements and information or make the reports concerning receipts and sales of tobacco products, vapor products, alternative nicotine products, or e-liquid products, as required by this subchapter or prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration, or who violates any of the requirements of this section, is guilty of a violation.

SECTION 4128. Arkansas Code § 26-57-235(b), concerning cigarette stamps, is amended to read as follows:

<< AR ST § 26-57-235 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall prescribe the kind of stamps to be used in the administration of this subchapter.

SECTION 4129. Arkansas Code § 26-57-235(c)(1) and (2), concerning cigarette stamps, are amended to read as follows:

<< AR ST § 26-57-235 >>

(c)(1) The ~~director~~ **secretary** shall prepare and maintain an adequate supply of cigarette stamps.

(2) The ~~director~~ **secretary** shall require a printer's certificate with each set of stamps delivered.

SECTION 4130. Arkansas Code § 26-57-235(c)(4)(A), concerning cigarette stamps, is amended to read as follows:

<< AR ST § 26-57-235 >>

(4)(A) All stamps prescribed by the ~~director~~ **secretary** for affixation to cigarette packages shall be designed and furnished in such a fashion as to permit identification of the person that affixed the stamp to the particular package of cigarettes by means of a number or other mark on the stamp.

SECTION 4131. Arkansas Code § 26-57-236(a), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall furnish tax stamps to licensed wholesalers through stamp deputies.

SECTION 4132. Arkansas Code § 26-57-236(b)(1), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(b)(1) The ~~director~~ **secretary** may appoint and commission stamp deputies to handle the stamps and collect the tax on cigarettes before sales of cigarettes are made to the retailers.

SECTION 4133. The introductory language of Arkansas Code § 26-57-236(b)(2), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(2) The ~~director~~ **secretary** shall not appoint and commission a person as a stamp deputy unless the person:

SECTION 4134. Arkansas Code § 26-57-236(b)(2)(B), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(B) Certifies each calendar quarter on a form prescribed by the ~~director~~ **secretary** that the person has and will comply with the requirements of this subchapter;

SECTION 4135. The introductory language of Arkansas Code § 26-57-236(b)(2)(E), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(E) Waives the confidentiality laws necessary to permit the ~~director~~ **secretary** to:

SECTION 4136. Arkansas Code § 26-57-236(b)(2)(E)(ii), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(ii) Share information reported under this subchapter and other laws with the taxing authorities or law enforcement authorities of other states or with any other entity permitted by the ~~director~~ **secretary** to aggregate the data;

SECTION 4137. Arkansas Code § 26-57-236(b)(2)(F), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(F) Has furnished a bond in an amount and in the form prescribed by the ~~director~~ **secretary**; and

SECTION 4138. Arkansas Code § 26-57-236(b)(3) and (4), concerning the appointment, revocation, and reporting of stamp deputies, are amended to read as follows:

<< AR ST § 26-57-236 >>

(3) An appointment and commission as a stamp deputy by the ~~director~~ **secretary** is effective for one (1) year.

(4) A stamp deputy acting within the scope of the stamp deputy's authority is an agent of the ~~director~~ **secretary** and is accountable as such for any wrongful acts.

SECTION 4139. Arkansas Code § 26-57-236(b)(6)(A), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(6)(A) The ~~director~~ **secretary** shall list on the website of the Department of Finance and Administration the names of all persons appointed and commissioned as stamp deputies under this section.

SECTION 4140. The introductory language of Arkansas Code § 26-57-236(c)(4)(A), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(4)(A) The ~~director~~ **secretary** shall:

SECTION 4141. Arkansas Code § 26-57-236(e)(1)(A), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(e)(1)(A) By the fifteenth day of each month, a stamp deputy shall file a report in the form prescribed by the ~~director~~ **secretary**, and the stamp deputy shall certify to the state that the report is complete and accurate.

SECTION 4142. Arkansas Code § 26-57-236(e)(1)(B)(v), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(v) Any additional information required by the ~~director~~ **secretary** to assist in the enforcement of this chapter, §§ 26-57-260 and 26-57-261, and §§ 26-57-1301 — 26-57-1308.

SECTION 4143. Arkansas Code § 26-57-236(e)(2) and (3), concerning the appointment, revocation, and reporting of stamp deputies, are amended to read as follows:

<< AR ST § 26-57-236 >>

(2) In addition to the reports submitted under this section, the stamp deputy shall submit any information required by the ~~director~~ **secretary**, including without limitation the manufacturer, brand family, and number of the cigarettes on which the reports are submitted.

(3) The ~~director~~ **secretary** may share the information reported under this section with the taxing authorities or law enforcement authorities of Arkansas or another state or with any other entity permitted by the ~~director~~ **secretary** to aggregate the data.

SECTION 4144. Arkansas Code § 26-57-236(f)(1), concerning the appointment, revocation, and reporting of stamp deputies, is amended to read as follows:

<< AR ST § 26-57-236 >>

(f)(1) The ~~director~~ **secretary** shall pay a commission to each stamp deputy for the sale of cigarette tax stamps, the affixing of a cigarette tax stamp to each package of cigarettes, and the collection of cigarette taxes.

SECTION 4145. Arkansas Code § 26-57-237(a), concerning cigarette stamps, sale, and delivery, is amended to read as follows:

<< AR ST § 26-57-237 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration or the ~~director's~~ **secretary's** stamp deputy may sell or deliver cigarette stamps only to licensed wholesalers.

SECTION 4146. Arkansas Code § 26-57-237(c)(1), concerning cigarette stamps, sale, and delivery, is amended to read as follows:

<< AR ST § 26-57-237 >>

(c)(1) Any cigarette or tobacco products wholesaler or any other person required by law to affix cigarette tax stamps to cigarettes sold or offered for sale in this state shall have the option to receive the stamps directly from the ~~director~~ **secretary** or to request that the stamps be shipped to the person in a manner to be selected by the ~~director~~ **secretary**.

SECTION 4147. Arkansas Code § 26-57-237(c)(4), concerning cigarette stamps, sale, and delivery, is amended to read as follows:

<< AR ST § 26-57-237 >>

(4) A wholesaler or other person who chooses a method of shipment other than the method selected by the ~~director~~ **secretary** shall pay the ~~director~~ **secretary** for the stamps prior to shipment.

SECTION 4148. Arkansas Code § 26-57-238 is amended to read as follows:

<< AR ST § 26-57-238 >>

26-57-238. Cigarette stamps — Refund on unsold, returned cigarettes.

When cigarettes to which stamps have been affixed are unsold and are returned by the retailer or the wholesaler who paid tax on them to the wholesaler or manufacturer from whom they were originally purchased, refund of the tax paid on the cigarettes may be made in the manner prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4149. Arkansas Code § 26-57-244(a), concerning the possession of untaxed, unstamped products, notice, and prima facie evidence, is amended to read as follows:

<< AR ST § 26-57-244 >>

(a) It is unlawful for a person to receive or have in the person's possession for sale, consumption, or any other purpose, any untaxed tobacco products or unstamped cigarettes unless the tax prescribed by this subchapter has been paid directly to the ~~Director~~ **Secretary** of the Department of Finance and Administration by the person in possession of the untaxed tobacco products or unstamped cigarettes.

SECTION 4150. Arkansas Code § 26-57-244(c), concerning the possession of untaxed, unstamped products, notice, and prima facie evidence, is amended to read as follows:

<< AR ST § 26-57-244 >>

(c) If tax has been paid to the ~~director~~ **secretary** on any untaxed tobacco products or unstamped cigarettes, a consumer may establish proof of the payment by providing a receipt or any other documentation that clearly indicates that the tax was paid.

SECTION 4151. Arkansas Code § 26-57-244(f)(2)-(4), concerning the possession of untaxed, unstamped products, notice, and prima facie evidence, are amended to read as follows:

<< AR ST § 26-57-244 >>

(2) The tax due shall be reported on forms provided by the ~~director~~ **secretary** on or before the fifteenth day of the month following the month in which the untaxed purchase was made.

(3) The report shall provide the information prescribed by the ~~director~~ **secretary**.

(4) When a report is filed, the consumer shall remit the full amount of tax due on the untaxed purchase to the ~~director~~ **secretary**.

SECTION 4152. Arkansas Code § 26-57-244(g), concerning the possession of untaxed, unstamped products, notice, and prima facie evidence, are amended to read as follows:

<< AR ST § 26-57-244 >>

(g) The ~~director~~ **secretary** is authorized to directly assess the excise tax due on any untaxed tobacco products or unstamped cigarettes against a consumer who purchases the items and fails to report and remit the excise tax due in a timely manner.

SECTION 4153. The introductory language of Arkansas Code § 26-57-244(i)(1)(B), concerning the possession of untaxed, unstamped products, notice, and prima facie evidence, are amended to read as follows:

<< AR ST § 26-57-244 >>

(B) Provides on at least a monthly basis and on the form prescribed by the ~~director~~ **secretary** a report indicating the following for each brand family:

SECTION 4154. The introductory language of Arkansas Code § 26-57-244(i)(2)(C), concerning the possession of untaxed, unstamped products, notice, and prima facie evidence, are amended to read as follows:

<< AR ST § 26-57-244 >>

(C) Provides on at least a monthly basis and on the form prescribed by the ~~director~~ **secretary** a report indicating the following for each brand family:

SECTION 4155. Arkansas Code § 26-57-244(i)(3)(A)(iii), concerning the possession of untaxed, unstamped products, notice, and prima facie evidence, are amended to read as follows:

<< AR ST § 26-57-244 >>

(iii) If the wholesaler's facility to which the cigarettes are transferred is located outside of Arkansas, the wholesaler shall report the quantity and brand of the cigarettes to the ~~director~~ **secretary**, the Attorney General, and the taxing authority of the other state within fifteen (15) days following the end of the month in which the transfer was made.

SECTION 4156. Arkansas Code § 26-57-247(b)(1), concerning the seizure, forfeiture, and disposition of tobacco products and other property, is amended to read as follows:

<< AR ST § 26-57-247 >>

(1) Prima facie evidence exists that the full amount of excise tax due on the tobacco products has not been paid to the ~~Director~~ **Secretary** of the Department of Finance and Administration;

SECTION 4157. Arkansas Code § 26-57-250(a), concerning party defendants in a civil action to recover tax and penalties, is amended to read as follows:

<< AR ST § 26-57-250 >>

(a) When the ~~Director~~ **Secretary** of the Department of Finance and Administration finds from investigation that the state has lost tax revenue because of the evasion of any provision of this subchapter, the ~~director~~ **secretary** may bring suit in the proper court to recover the tax and penalties.

SECTION 4158. Arkansas Code § 26-57-251(a), concerning criminal actions and civil actions brought in the name of the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 26-57-251 >>

(a) All civil actions arising under this subchapter shall be brought by and in the name of the ~~Director~~ **Secretary** of the Department of Finance and Administration or the Director of Arkansas Tobacco Control, whichever is appropriate under the provisions of this subchapter.

SECTION 4159. Arkansas Code § 26-57-256(a)(4)(C)(i), concerning the powers of the Arkansas Tobacco Control Board, is amended to read as follows:

<< AR ST § 26-57-256 >>

(C)(i) Each year the board shall provide a list of all applicants for the issuance or renewal of all tobacco, vapor product, alternative nicotine product, or e-liquid product permits and licenses to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4160. Arkansas Code § 26-57-257(c), concerning the Director of Arkansas Tobacco Control, is amended to read as follows:

<< AR ST § 26-57-257 >>

(c) The Director of Arkansas Tobacco Control, **in consultation with the Secretary of the Department of Finance and Administration**, may employ other personnel as he or she deems necessary and as authorized by the General Assembly.

SECTION 4161. Arkansas Code § 26-57-257(p), concerning the Director of Arkansas Tobacco Control, is amended to clarify the duties of the director to read as follows:

<< AR ST § 26-57-257 >>

(p) The Director of Arkansas Tobacco Control shall have other powers, functions, and duties pertaining to the issuance, suspension, and revocation of the permits and licenses enumerated in § 26-57-219 ~~that previously were granted to the Director of the Department of Finance and Administration~~, except those that are specifically delegated to the Department of Finance and Administration by this subchapter.

SECTION 4162. Arkansas Code § 26-57-257(q)(1), concerning the Director of Arkansas Tobacco Control, is amended to read as follows:

<< AR ST § 26-57-257 >>

(q)(1)(A) The power and duty to collect taxes imposed on tobacco and tobacco products is specifically exempted from the powers and duties granted or assigned to the board or the director **Director of Tobacco Control**.

(B) However, a permit or license holder's failure to pay taxes or fees imposed on tobacco products or any permit or license fees imposed by this subchapter in a timely manner is grounds for the nonissuance, suspension, revocation, or nonrenewal of any permits or licenses issued by the board.

(C) Failure to timely and fully pay any other state and local taxes as reported by the Director **Secretary** of the Department of Finance and Administration shall also constitute grounds for the nonissuance, suspension, revocation, or nonrenewal of any permits or licenses issued by the board.

SECTION 4163. Arkansas Code § 26-57-257(q)(2)(A), concerning the Director of Arkansas Tobacco Control, is amended to read as follows:

<< AR ST § 26-57-257 >>

(2)(A) Each year the Director **Secretary** of the Department of Finance and Administration shall report to the Director of Arkansas Tobacco Control all permit and license holders who are more than ninety (90) days delinquent on any state and local taxes.

SECTION 4164. Arkansas Code § 26-57-257(q)(3)(B), concerning the Director of Arkansas Tobacco Control, is amended to read as follows:

<< AR ST § 26-57-257 >>

(B) This notice shall inform the permit or license holder that he or she is delinquent on payment of state and local taxes due the Director **Secretary** of the Department of Finance and Administration and that the permit or license holder will be unable to obtain or renew the permit or license that he or she holds until such time as the person becomes current in the payment of the tax due the Director **Secretary** of the Department of Finance and Administration, or until such time as the person enters into a valid repayment agreement with the department for the payment of the delinquent tax.

SECTION 4165. Arkansas Code § 26-57-262(c)(6), concerning the sale of export cigarettes, is amended to read as follows:

<< AR ST § 26-57-262 >>

(6) On or before the fifteenth business day of each month, each person licensed to affix the state tax stamp to cigarettes shall file with the ~~Director~~ **Secretary** of the Department of Finance and Administration for all cigarettes imported into the United States to which the person has affixed the tax stamp in the preceding month copies of the customs certificates with respect to the cigarettes required to be submitted by 19 U.S.C. § 1681a(c).

SECTION 4166. Arkansas Code § 26-57-263(b)(2)(B)(i), concerning cigarette inputs and cigarette rolling machines, is amended to read as follows:

<< AR ST § 26-57-263 >>

(B)(i) A civil penalty of up to fifty thousand dollars (\$50,000) in any action brought by the ~~Director~~ **Secretary** of the Department of Finance and Administration, **the Director of** Arkansas Tobacco Control, or the Attorney General.

SECTION 4167. Arkansas Code § 26-57-264(a), concerning information to be provided to the Attorney General, is amended to read as follows:

<< AR ST § 26-57-264 >>

(a) Upon request of the Attorney General, any information provided to the ~~Director~~ **Secretary** of the Department of Finance and Administration or **the Director of** Arkansas Tobacco Control shall be provided to the Attorney General.

SECTION 4168. Arkansas Code § 26-57-404(b), concerning privilege taxes on amusement devices, is amended to read as follows:

<< AR ST § 26-57-404 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall collect for each amusement device the full annual license fee when paid during the first six (6) months of the fiscal year, but any license fee paid during the last six (6) months of the fiscal year shall be upon the basis of one-half ($\frac{1}{2}$) of the annual tax.

SECTION 4169. Arkansas Code § 26-57-405(a), concerning the license tag for machines, is amended to read as follows:

<< AR ST § 26-57-405 >>

(a) Upon payment of the tax provided for in § 26-57-404, the ~~Director~~ **Secretary** of the Department of Finance and Administration will issue a license tag.

SECTION 4170. Arkansas Code § 26-57-406 is amended to read as follows:

<< AR ST § 26-57-406 >>

26-57-406. Unlicensed games a public nuisance — Seizure and sale — Redemption.

Every amusement device as defined in § 26-57-402 upon which the individual privilege tax of five dollars (\$5.00) has not been paid is declared to be a public nuisance and may be seized by any authorized agent of the Department of Finance and Administration and sold by the ~~Director~~ **Secretary** of the Department of Finance and Administration on an order of the Pulaski County Circuit Court. However, the owner of the amusement device shall have the privilege of redeeming the amusement device within ten (10) days by paying the tax due and costs.

SECTION 4171. Arkansas Code § 26-57-411(a), concerning the requirement for a surety bond for a license, is amended to read as follows:

<< AR ST § 26-57-411 >>

(a) Prior to the issuance or renewal of any license under this subchapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall require the applicant to procure a suitable surety bond in the principal sum of six thousand dollars (\$6,000) to insure the faithful and prompt payment of all sales taxes, use taxes, or privilege taxes which may become due in connection with the operation of the licensed business and to secure the faithful performance of all duties and obligations imposed by this subchapter.

SECTION 4172. Arkansas Code § 26-57-412(a) and (b), concerning the issuance of a license for a coin-operated amusement device, are amended to read as follows:

<< AR ST § 26-57-412 >>

(a) Licenses for the privilege of owning, operating, or leasing coin-operated amusement devices shall be issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) Applications for the licenses shall be on a form prescribed by the ~~director~~ **secretary**.

SECTION 4173. Arkansas Code § 26-57-413(a), concerning licenses, revocation, or suspension in regards to coin-operated amusement devices, is amended to read as follows:

<< AR ST § 26-57-413 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration may revoke or suspend the license authorized under this subchapter for cause.

SECTION 4174. Arkansas Code § 26-57-413(c), concerning licenses, revocation, or suspension in regards to coin-operated amusement devices, is amended to read as follows:

<< AR ST § 26-57-413 >>

(c) The licensee shall have fifteen (15) days in which to notify the ~~director~~ **secretary** that a hearing is desired, after which time a hearing shall be had not less than fifteen (15) days subsequent to the expiration of the fifteen-day period of notice.

SECTION 4175. Arkansas Code § 26–57–413(d)(1), concerning licenses, revocation, or suspension in regards to coin-operated amusement devices, is amended to read as follows:

<< AR ST § 26–57–413 >>

(d)(1) Any licensee whose license has been revoked or suspended may appeal to the Pulaski County Circuit Court within twenty (20) days after revocation or suspension by filing a copy of the notice of the revocation or suspension with the clerk of the circuit court and causing a summons to be served on the ~~director~~ **secretary**.

SECTION 4176. Arkansas Code § 26–57–414(b)(1), concerning a coin-operated amusement device, is amended to read as follows:

<< AR ST § 26–57–414 >>

(b)(1) A coin-operated amusement device owned, operated, or leased without first obtaining the license prescribed in § 26–57–412 shall be seized by an authorized agent of the Revenue Division of the Department of Finance and Administration and sold by the ~~Director~~ **Secretary** of the Department of Finance and Administration at public auction on an order of the Pulaski County Circuit Court.

SECTION 4177. Arkansas Code § 26–57–415(a), concerning the notification of purchase or lease of an amusement device, is amended to read as follows:

<< AR ST § 26–57–415 >>

(a) All licensees under this subchapter within ten (10) days of the date of purchase or lease of any amusement device upon which an annual privilege tax is levied by the state shall furnish the ~~Director~~ **Secretary** of the Department of Finance and Administration with a copy of the invoice or lease agreement, showing the description and serial number of the amusement device and evidence that the Arkansas sales tax has been paid.

SECTION 4178. Arkansas Code § 26–57–416(c), concerning a lessor's records and sales taxes, is amended to read as follows:

<< AR ST § 26–57–416 >>

(c) All records required to be kept by the licensee under the provision of this subchapter shall be made available to the ~~Director~~ **Secretary** of the Department of Finance and Administration within a reasonable time after request or the license of the offending licensee may be revoked as provided in this subchapter.

SECTION 4179. Arkansas Code § 26–57–419(a) and (b), concerning a licenses to sell coin-operated amusement devices, are amended to read as follows:

<< AR ST § 26–57–419 >>

(a) Licenses to sell coin-operated amusement devices shall be issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) Applications for the licenses shall be on a form prescribed by the ~~director~~ **secretary**.

SECTION 4180. Arkansas Code § 26-57-419(f)(1), concerning a licenses to sell coin-operated amusement devices, is amended to read as follows:

<< AR ST § 26-57-419 >>

(f)(1) The ~~director~~ **secretary** may revoke or suspend the licenses for cause.

SECTION 4181. Arkansas Code § 26-57-419(f)(3), concerning a licenses to sell coin-operated amusement devices, is amended to read as follows:

<< AR ST § 26-57-419 >>

(3) The licensee shall have fifteen (15) days in which to notify the ~~director~~ **secretary** that a hearing is desired, after which time a hearing shall be held not less than fifteen (15) days subsequent to the expiration of the fifteen-day period of notice.

SECTION 4182. Arkansas Code § 26-57-419(f)(4)(A), concerning a licenses to sell coin-operated amusement devices, is amended to read as follows:

<< AR ST § 26-57-419 >>

(4)(A) Any licensee whose license has been revoked or suspended may appeal to the Pulaski County Circuit Court by filing a copy of the notice of revocation or suspension with the clerk of the court within twenty (20) days of receipt thereof and causing the issuance of a summons to be served on the ~~director~~ **secretary**. The hearing shall be de novo in the Pulaski County Circuit Court.

SECTION 4183. Arkansas Code § 26-57-502 is amended to read as follows:

<< AR ST § 26-57-502 >>

26-57-502. Regulation and licensing.

The regulation and licensing of the business conducted in this state by what is known as travel bureaus or travel services operating for the purpose of securing transportation in private automobiles from one (1) destination to another on the share-expense basis both within and without the State of Arkansas is placed in the Revenue Division of the Department of Finance and Administration, and the ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to license and collect the fees therefor and enforce this subchapter in its entirety by due process of law.

SECTION 4184. Arkansas Code § 26-57-503 is amended to read as follows:

<< AR ST § 26-57-503 >>

26-57-503. Notice of engaging in business.

(a) Any person, firm, partnership, limited liability company, or corporation in this state who shall enter into or conduct such a business as is described in § 26-57-502 immediately upon engaging in or commencing the business shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration by letter of that fact, setting forth the date of commencement and stating his or her intention to abide by all the provisions of this subchapter.

(b) The notice shall be filed by the ~~director~~ **secretary** in such manner as will enable the ~~director~~ **secretary** to properly inspect and record the latter compliance of the person with the provisions of this subchapter.

SECTION 4185. Arkansas Code § 26-57-506 is amended to read as follows:

<< AR ST § 26-57-506 >>

26-57-506. Disposition of tax.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall remit the funds so collected to the State Treasury, and the Treasurer of State is directed to credit all the moneys to the Old Age Pension Fund.

SECTION 4186. Arkansas Code § 26-57-801(c) and (d), concerning excise taxes, are amended to read as follows:

<< AR ST § 26-57-801 >>

(c) The tax shall be remitted to the ~~Director~~ **Secretary** of the Department of Finance and Administration at the same time and in the same manner as prescribed by the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq.

(d) The ~~director~~ **secretary** shall promulgate such regulations as the ~~director~~ **secretary** deems necessary for the implementation of this section.

SECTION 4187. Arkansas Code § 26-57-802(e), concerning additional taxes, applicability, reporting, and remitting, is amended to read as follows:

<< AR ST § 26-57-802 >>

(e) As provided in § 26-57-244, the ~~Director~~ **Secretary** of the Department of Finance and Administration may make a direct assessment of excise tax against any person in possession of an untaxed tobacco product or unstamped cigarettes.

SECTION 4188. Arkansas Code § 26-57-804(e), concerning an additional tax of twelve dollars and fifty cents on cigarettes, is amended to read as follows:

<< AR ST § 26-57-804 >>

(e) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall pay the commission authorized by § 26-57-236 with respect to the tax levied by this section.

SECTION 4189. Arkansas Code § 26-57-804(g), concerning an additional tax of twelve dollars and fifty cents on cigarettes, is amended to read as follows:

<< AR ST § 26-57-804 >>

(g) As provided in § 26-57-244, the ~~director~~ **secretary** may make a direct assessment of excise tax against any person in possession of unstamped cigarettes.

SECTION 4190. Arkansas Code § 26-57-805(e), concerning an additional tax of seven percent on tobacco products other than cigarettes, is amended to read as follows:

<< AR ST § 26-57-805 >>

(e) As provided in § 26-57-244, the ~~Director~~ **Secretary** of the Department of Finance and Administration may make a direct assessment of excise tax against any person in possession of an untaxed tobacco product.

SECTION 4191. Arkansas Code § 26-57-806(f), concerning an additional tax of twenty-eight dollars on cigarettes, is amended to read as follows:

<< AR ST § 26-57-806 >>

(f) As provided in § 26-57-244, the ~~Director~~ **Secretary** of the Department of Finance and Administration may make a direct assessment of excise tax against any person in possession of unstamped cigarettes.

SECTION 4192. Arkansas Code § 26-57-807(f), concerning an additional tax of thirty-six percent on tobacco products other than cigarettes, is amended to read as follows:

<< AR ST § 26-57-807 >>

(f) As provided in § 26-57-244, the ~~Director~~ **Secretary** of the Department of Finance and Administration may make a direct assessment of excise tax against any person in possession of an untaxed tobacco product.

SECTION 4193. Arkansas Code § 26-57-902(3), concerning the definition of “director” under the Arkansas Soft Drink Tax Act, is repealed.

<< AR ST § 26-57-902 >>

~~(3) “Director” means the Director of the Department of Finance and Administration or his or her authorized agent;~~

SECTION 4194. Arkansas Code § 26-57-905(6), concerning exemptions from certain taxes, is amended to read as follows:

<< AR ST § 26-57-905 >>

(6) Syrups, simple syrups, powders or base products, or soft drinks sold by one distributor, wholesaler, or manufacturer to another distributor, wholesaler, or manufacturer who holds a license issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration under the provisions of § 26-57-909 as a distributor, wholesaler, or manufacturer, provided that the license number of the distributor, wholesaler, or manufacturer to whom the soft drink is sold is clearly shown on the invoice for the sale which is claimed to be exempt. This exemption shall not apply to any sale to a retailer;

SECTION 4195. Arkansas Code § 26-57-906(b) and (c), concerning the reporting of taxes, are amended to read as follows:

<< AR ST § 26-57-906 >>

(b) The distributor, wholesaler, or manufacturer and any retailer subject to this tax shall file a monthly return and remit the tax for the month to the ~~Director~~ **Secretary** of the Department of Finance and Administration on or before the fifteenth day of the month next following the month in which the sale or purchase was made.

(c)(1) The returns shall be made upon forms prescribed and furnished by the ~~director~~ **secretary** and signed by the person required to collect and remit the tax or the person's agent.

(2) The return shall contain such information as the ~~director~~ **secretary** shall require for the proper administration of this subchapter.

SECTION 4196. Arkansas Code § 26-57-909(a) and (b), concerning licenses for soft drinks, are amended to read as follows:

<< AR ST § 26-57-909 >>

(a) All distributors, wholesalers, or manufacturers of soft drinks, whether located within or without the State of Arkansas, who sell or offer syrups, simple syrups, powders, or base products, or soft drinks for sale to retail dealers within the State of Arkansas shall obtain a license for the privilege of conducting such business within Arkansas from the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) Any retailer who purchases syrups, simple syrups, powders, or base products, or soft drinks from an unlicensed manufacturer, wholesaler, or distributor shall obtain a license for the privilege of conducting such business from the ~~director~~ **secretary**.

SECTION 4197. Arkansas Code § 26-57-1001(1), concerning sales taxes for vending devices, is amended to read as follows:

<< AR ST § 26-57-1001 >>

(1) “~~Director~~ **Secretary**” means the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her authorized agents;

SECTION 4198. Arkansas Code § 26-57-1002(a) and (b), concerning registration, records, and amount of taxes, are amended to read as follows:

<< AR ST § 26-57-1002 >>

(a) Any person who sells tangible personal property through vending devices may elect to register with the ~~Director~~ **Secretary** of the Department of Finance and Administration as a vending device operator and pay the state and local sales and use taxes as provided in this section.

(b) Any person who elects to register as a vending device operator shall obtain a gross receipts tax permit from the ~~director~~ **secretary** as provided in § 26-52-201 et seq.

SECTION 4199. Arkansas Code § 26-57-1003(a)(1), concerning an election not to register, is amended to read as follows:

<< AR ST § 26-57-1003 >>

(1) Surrender any gross receipts tax permits issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration, unless the permit is needed to report taxable sales other than sales through a vending device; and

SECTION 4200. Arkansas Code § 26-57-1003(a)(2)(B)(i), concerning an election not to register, is amended to read as follows:

<< AR ST § 26-57-1003 >>

(B)(i) The sale for resale exemption provided in § 26-52-401(12) shall not apply to purchases of tangible personal property for resale through vending devices unless the purchaser is registered with the ~~director~~ **secretary** as a vending device operator.

SECTION 4201. Arkansas Code § 26-57-1004(b)(1)(B), concerning the identification of a taxpayer and presumption of nonpayment, is amended to read as follows:

<< AR ST § 26-57-1004 >>

(B) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall seal any vending device subject to this presumption in such a manner as to prevent any further sales through the vending device and shall assess and collect a penalty of fifty dollars (\$50.00) per vending device against the person selling tangible personal property through the vending device.

SECTION 4202. Arkansas Code § 26-57-1101(b), concerning an additional tax on cigarettes, is amended to read as follows:

<< AR ST § 26-57-1101 >>

(b) As provided in § 26-57-244, the ~~Director~~ **Secretary** of the Department of Finance and Administration may make a direct assessment of excise tax against any person in possession of unstamped cigarettes.

SECTION 4203. Arkansas Code § 26-57-1102(c), concerning an additional tax on tobacco products other than cigarettes, is amended to read as follows:

<< AR ST § 26-57-1102 >>

(c) As provided in § 26-57-244, the ~~Director~~ **Secretary** of the Department of Finance and Administration may make a direct assessment of excise tax against any person in possession of untaxed tobacco products.

SECTION 4204. Arkansas Code § 26-57-1202 is amended to read as follows:

<< AR ST § 26-57-1202 >>

26-57-1202. Administration of law.

The provisions of this subchapter will be subject to the provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq., as those provisions shall apply to the administration of this subchapter by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4205. Arkansas Code § 26-57-1204(b) and (c), concerning the application, issuance, and display of a vending device decal, are amended to read as follows:

<< AR ST § 26-57-1204 >>

(b) The operator of a vending device who makes the election to pay the decal fees provided by this subchapter shall be responsible for applying to the ~~Director~~ **Secretary** of the Department of Finance and Administration for the issuance of an annual or special vending device decal for the vending device and at the same time shall pay to the ~~director~~ **secretary** the annual or special vending device decal fee provided for by this subchapter, before the vending device is made available for use and operation by the general public.

(c) The ~~director~~ **secretary**, upon receipt of full payment of the applicable decal fee, and upon approval of the application, shall issue to the person making the application an annual or special vending device decal for the type of vending device or devices covered by the application and payment.

SECTION 4206. Arkansas Code § 26-57-1204(d)(1), concerning the application, issuance, and display of a vending device decal, is amended to read as follows:

<< AR ST § 26-57-1204 >>

(d)(1) The annual or special vending device decals and the application provided for herein shall be in such form as prescribed by the ~~director~~ **secretary**. These decals and applications shall contain on their faces such information and descriptions as shall be required by regulations adopted by the ~~director~~ **secretary** to properly and reasonably implement the provisions of this subchapter.

SECTION 4207. Arkansas Code § 26-57-1205(2), concerning the requirements to obtain a vending device decal, is amended to read as follows:

<< AR ST § 26-57-1205 >>

(2) Must have obtained from the ~~Director~~ **Secretary** of the Department of Finance and Administration an Arkansas gross receipts tax permit.

SECTION 4208. The introductory language of Arkansas Code § 26-57-1206(a)(1), concerning the annual decal fee, special decals, and in lieu of sales tax, is amended to read as follows:

<< AR ST § 26-57-1206 >>

(a)(1) Every person who is the operator of a vending device, who elects to have the operation of the vending device covered by the provisions of this subchapter, and who makes available to the general public for use and operation vending devices described in this subchapter shall pay to the ~~Director~~ **Secretary** of the Department of Finance and Administration for the benefit of the state and its municipalities and counties the following annual vending device decal fee for each vending device before the vending device may be placed in service within the state for use by members of the public:

SECTION 4209. Arkansas Code § 26-57-1206(a)(3), concerning the annual decal fee, special decals, and in lieu of sales tax, is amended to read as follows:

<< AR ST § 26-57-1206 >>

(3) The annual vending device decal shall not be transferred from one (1) vending device to another, unless the person who is the operator of the vending device shall establish to the satisfaction of the ~~director~~ **secretary** that the vending device to which the annual vending device decal is to be transferred is a vending device that is replacing the vending device to which the annual vending device decal was originally affixed.

SECTION 4210. The introductory language of Arkansas Code § 26-57-1206(b), concerning the annual decal fee, special decals, and in lieu of sales tax, is amended to read as follows:

<< AR ST § 26-57-1206 >>

(b) In those instances in which it is shown to the satisfaction of the ~~director~~ **secretary** that a vending device upon which an annual vending device decal fee is otherwise due will be placed in service for use by members of the general public for a definite period of time that is less than one (1) year, such as when the vending device shall be placed for public use in connection with fairs, carnivals, and places of amusement that operate only during certain seasons of the year, the ~~director~~ **secretary** shall issue for those vending devices a special vending device decal and collect a special vending device decal fee computed as follows:

SECTION 4211. Arkansas Code § 26-57-1206(e), concerning the annual decal fee, special decals, and in lieu of sales tax, is amended to read as follows:

<< AR ST § 26-57-1206 >>

(e)(1) For all vending devices that the operator does not elect to have covered by the decal fee provided by this section, the operator of that vending device shall acquire from the ~~director~~ **secretary** an identifying decal that the operator shall affix to the vending device in a prominent place so as to establish to the consuming public that the vending device is not covered by the provisions of this subchapter.

(2) By reasonable regulations the ~~director~~ **secretary** shall establish the amount to be charged for an identifying decal, and the amount shall not exceed the cost of producing the identifying decals.

SECTION 4212. Arkansas Code § 26-57-1207(a)(2), concerning the taxable year, a decal for a remainder of years, and first year payment options, is amended to read as follows:

<< AR ST § 26-57-1207 >>

(2) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall in each instance issue annual vending device decals for the remainder of the decal year upon payment of the annual vending device decal fee on the basis of the full amount of the annual decal applied for between July 1 and December 31 of the decal fee year, and in return for the payment of an amount of one-half ($\frac{1}{2}$) of the annual vending device decal fee, for any annual decal applied for between January 1 and June 30 of the decal fee year.

SECTION 4213. Arkansas Code § 26-57-1207(b), concerning the taxable year, a decal for a remainder of years, and first year payment options, is amended to read as follows:

<< AR ST § 26-57-1207 >>

(b) For the first taxable year that the annual or special vending device decal fee is applicable, the person who is the operator of the vending devices that are subject to registration and payment of the decal fees shall register all vending devices with the ~~director~~ **secretary**, but for the first one-half year, after March 31, 1997, the operator shall pay one-half (½) of the decal fee for each vending device on or before January 1, 1998. Thereafter, the entire annual or special vending device decal fee shall be due from the person who is the owner, lessor, renter, or operator of the vending devices on or before July 1 of the applicable taxable year.

SECTION 4214. Arkansas Code § 26-57-1208(a)(2), concerning the distribution of revenue, is amended to read as follows:

<< AR ST § 26-57-1208 >>

(2) For that purpose and to that end, it is expressly provided that the revenue derived by the ~~Director~~ **Secretary** of the Department of Finance and Administration from the sale of annual or special vending device decal fees, including penalties, shall be deposited by the ~~director~~ **secretary** into the State Treasury and credited as provided in subsection (b) of this section.

SECTION 4215. Arkansas Code § 26-57-1209(a)(1), concerning penalties in regards to vending devices, is amended to read as follows:

<< AR ST § 26-57-1209 >>

(a)(1) Any person who is the operator of a vending device who places a vending device in use and operation, or in a place available to members of the general public for use and operation, without a valid and current annual or special vending device decal having been affixed thereto as required by §§ 26-57-1204 and 26-57-1206, shall be liable for the decal fee on the vending device in the full amount of the applicable annual vending device decal fee, as levied by this subchapter, and the annual vending device decal fee shall be collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration in accordance with the provisions of § 26-57-1204.

SECTION 4216. Arkansas Code § 26-57-1209(a)(2)(A), concerning penalties in regards to vending devices, is amended to read as follows:

<< AR ST § 26-57-1209 >>

(2)(A) In addition to the annual vending device decal fee that is due on the vending device, the operator of the vending device which was responsible for failing to apply for and pay for the applicable annual vending device decal fee shall also be liable to pay the ~~director~~ **secretary** a penalty which the person shall pay to the ~~director~~ **secretary** and which the ~~director~~ **secretary** shall assess against the person.

SECTION 4217. Arkansas Code § 26-57-1210(b), concerning prohibited devices not legalized and fees not refunded, is amended to read as follows:

<< AR ST § 26-57-1210 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration may assume that any vending device described in any application made under this subchapter and for which an annual or special vending device decal fee is paid is lawful, and no claim for refund of any annual or special vending device decal fee shall be allowed based upon the inability of the operator of the coin-operated device to operate the vending device because of any other applicable law of this state.

SECTION 4218. Arkansas Code § 26-57-1211(b) and (c), concerning vending devices without a decal affixed, seizure and forfeiture, are amended to read as follows:

<< AR ST § 26-57-1211 >>

(b) The vending device may be seized and sealed on site at its location by the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her authorized agent, and the vending device shall not be removed from the location by any person until the vending device is released from seizure by the ~~director~~ **secretary** or his or her authorized agent.

(c) The vending device may be seized by any authorized agent of the ~~director~~ **secretary**, or by any sheriff or other law enforcement officer of this state acting upon the request and at the direction of the ~~director~~ **secretary**.

SECTION 4219. Arkansas Code § 26-57-1212(a) and (b), concerning the procedure upon forfeiture of a vending device, are amended to read as follows:

<< AR ST § 26-57-1212 >>

(a) Upon the seizure of the vending device, the vending device shall forthwith be delivered, together with the cash, if any, contained in the receptacle of the vending device, to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) The ~~director~~ **secretary** or his or her authorized agent shall then proceed to make an administrative determination of whether or not the vending device and cash, if any, that have been seized should in fact be forfeited to the State of Arkansas.

SECTION 4220. Arkansas Code § 26-57-1213(a), concerning the sale of devices upon forfeiture, is amended to read as follows:

<< AR ST § 26-57-1213 >>

(a) In the event the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her authorized agent finds that the vending device, including the cash contents, if any, should be forfeited to the State of Arkansas, the ~~director~~ **secretary** or his or her authorized agent shall make a written determination of forfeiture of the vending device to the State of Arkansas, and the ~~director~~ **secretary** shall direct the sale of the vending device.

SECTION 4221. The introductory language of Arkansas Code § 26-57-1213(b), concerning the sale of devices upon forfeiture, is amended to read as follows:

<< AR ST § 26-57-1213 >>

(b) The vending device shall be sold by the ~~director~~ **secretary**, his or her authorized agent, the sheriff in the county where it was seized, or the sheriff of Pulaski County after thirty-days' written notice of sale, which notice of sale shall be given:

SECTION 4222. Arkansas Code § 26-57-1213(c), concerning the sale of devices upon forfeiture, is amended to read as follows:

<< AR ST § 26-57-1213 >>

(c) At the discretion of the ~~director~~ **secretary**, notice of sale of the vending device may be given, alternatively to posting, by publishing the notice of sale in a newspaper of general circulation in the county at least thirty (30) days prior to the sale.

SECTION 4223. Arkansas Code § 26-57-1216 is amended to read as follows:

<< AR ST § 26-57-1216 >>

26-57-1216. Forfeiture determination — Appeal.

(a) The written determination of the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her authorized agent declaring a forfeiture of the vending device, including the cash contents thereof, if any, and directing the sale of the vending device shall be a final determination of the ~~director~~ **secretary** and shall be treated for purposes of the owner's or operator's appeal of the ~~director's~~ **secretary's** determination as a final assessment, subject to the provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(b) Judicial review of the final determination by the ~~director~~ **secretary** shall be available pursuant to the provisions of § 26-18-406.

SECTION 4224. Arkansas Code § 26-57-1303(b)(4)(A), concerning certifications, directory, and tax stamps, is amended to read as follows:

<< AR ST § 26-57-1303 >>

(A) The tobacco product manufacturer knowingly sold cigarettes to a stamp deputy whose appointment and commission has been revoked by the ~~Director~~ **Secretary** of the Department of Finance and Administration under § 26-57-236;

SECTION 4225. Arkansas Code § 26-57-1502 is amended to read as follows:

<< AR ST § 26-57-1502 >>

26-57-1502. Administration of law.

The provisions of this subchapter are subject to the provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq., as those provisions apply to the administration of this subchapter by the ~~Director~~ **Secretary** of the Department of Finance and Administration, including without limitation the provisions regarding interest and penalty on delinquent taxes.

SECTION 4226. Arkansas Code § 26-57-1504 is amended to read as follows:

<< AR ST § 26-57-1504 >>

26-57-1504. Levy of tax.

A cultivation facility, dispensary, or other marijuana business shall collect and remit a special privilege tax of four percent (4%) from the gross receipts or gross proceeds derived from each sale of usable marijuana on forms and in a manner specified by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4227. Arkansas Code § 26-57-1505(b), concerning the remittance of tax, is amended to read as follows:

<< AR ST § 26-57-1505 >>

(b) The cultivation facility, dispensary, or other marijuana business subject to this tax shall file a monthly return and remit the tax for the month to the ~~Director~~ **Secretary** of the Department of Finance and Administration on or before the twentieth day of the month next following the month in which the sale or purchase was made.

SECTION 4228. Arkansas Code § 26-57-1505(c)(2), concerning the remittance of tax, is amended to read as follows:

<< AR ST § 26-57-1505 >>

(2) The return shall contain such information as the ~~director~~ **secretary** requires for the proper administration of this subchapter.

SECTION 4229. Arkansas Code § 26-58-101(5), concerning the definition of “director” under severance tax law, is amended to read as follows:

<< AR ST § 26-58-101 >>

~~(5) “Director” means the Director of the Department of Finance and Administration or any of his or her duly appointed deputies or agents;~~

SECTION 4230. Arkansas Code § 26-58-105 is amended to read as follows:

<< AR ST § 26-58-105 >>

26-58-105. Regulations and forms regarding severance taxes on timber.

The ~~Director~~ **Secretary** of the Department of Finance and Administration with the advice and approval of the Arkansas Forestry Commission shall develop and adopt appropriate regulations and forms to carry out the intent and purposes of this subchapter with respect to severance taxes on timber.

SECTION 4231. Arkansas Code § 26-58-106(a), concerning permits to engage in business, is amended to read as follows:

<< AR ST § 26-58-106 >>

(a)(1) Any individual or firm desiring to engage in the business of severing natural resources or timber before entering the business shall make application to the ~~Director~~ **Secretary** of the Department of Finance and Administration for a license or permit.

(2) In a form of application to be prescribed by the ~~director~~ **secretary**, the applicant shall state under oath his or her name and address, the business in which he or she desires to engage, and the counties in which he or she will carry on the proposed severing.

SECTION 4232. Arkansas Code § 26-58-106(b)(3), concerning permits to engage in business, is amended to read as follows:

<< AR ST § 26-58-106 >>

(3) That the severance tax imposed by this subchapter shall constitute and remain a lien on each unit of production until the severance tax is paid to the ~~director~~ **secretary**.

SECTION 4233. Arkansas Code § 26-58-106(c), concerning permits to engage in business, is amended to read as follows:

<< AR ST § 26-58-106 >>

(c) Upon the filing of the application, the ~~director~~ **secretary** shall issue a permit for which no charge shall be made.

SECTION 4234. Arkansas Code § 26-58-107(b), concerning the levying of taxes, is amended to read as follows:

<< AR ST § 26-58-107 >>

(b) The severance tax is to be paid to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4235. Arkansas Code § 26-58-111(6)(C), concerning the rate of tax, is amended to read as follows:

<< AR ST § 26-58-111 >>

(C) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the power to promulgate such reasonable rules and regulations as shall be necessary to effectively enforce the foregoing provisions;

SECTION 4236. Arkansas Code § 26-58-111(7)(C)(ii), concerning the rate of tax, is amended to read as follows:

<< AR ST § 26-58-111 >>

(ii) If the above conversion factors are not appropriate for conversion of any particular measurement of timber to weight, the ~~director~~ **secretary**, with the advice and approval of the Arkansas Forestry Commission, shall develop an appropriate conversion procedure to produce equivalent rates;

SECTION 4237. Arkansas Code § 26-58-113(b), concerning an additional tax on stone and crushed stone, as well as deposit and allocation of funds, is amended to read as follows:

<< AR ST § 26-58-113 >>

(b) The additional severance tax is to be paid to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4238. Arkansas Code § 26-58-113(e)(1), concerning an additional tax on stone and crushed stone, as well as deposit and allocation of funds, is amended to read as follows:

<< AR ST § 26-58-113 >>

(e)(1) All taxes, penalties, and costs collected by the ~~director~~ **secretary** under the provisions of this section shall be deposited into the State Treasury to the credit of the State Apportionment Fund.

SECTION 4239. Arkansas Code § 26–58–113(e)(2)(B)(i)(b), concerning an additional tax on stone and crushed stone, as well as deposit and allocation of funds, is amended to read as follows:

<< AR ST § 26–58–113 >>

(b) On or before the tenth of the month following the end of each calendar quarter, the Treasurer of State shall remit by state warrants to the various county treasurers all such funds received by the Treasurer of State during such quarterly period and transferred to the County Aid Fund in the proportions thereof as between the respective counties that, as certified by the ~~director~~ **secretary** to the Treasurer of State, the total severance tax produced from each such county bears to the total of such taxes produced from all counties.

SECTION 4240. The introductory language of Arkansas Code § 26–58–114(a)(1), concerning reports, payment of taxes by producers, primary processors, cancellation of permit upon cessation of business, and the penalty for noncompliance, is amended to read as follows:

<< AR ST § 26–58–114 >>

(a)(1) Each producer of natural resources, excluding natural gas, and each primary processor of timber, whether or not he or she shall have actually severed natural resources, excluding natural gas, or processed timber during the preceding month, shall file a report within twenty-five (25) days after the end of each month with the ~~Director~~ **Secretary** of the Department of Finance and Administration in a form prescribed by the ~~director~~ **secretary** that states:

SECTION 4241. Arkansas Code § 26–58–114(a)(1)(E), concerning reports, payment of taxes by producers, primary processors, cancellation of permit upon cessation of business, and the penalty for noncompliance, is amended to read as follows:

<< AR ST § 26–58–114 >>

(E) Any other information as the ~~director~~ **secretary** may reasonably require for the enforcement of this subchapter.

SECTION 4242. Arkansas Code § 26–58–114(a)(2)(A), concerning reports, payment of taxes by producers, primary processors, cancellation of permit upon cessation of business, and the penalty for noncompliance, is amended to read as follows:

<< AR ST § 26–58–114 >>

(2)(A) When the average amount of severance tax for which the taxpayer is liable for the previous fiscal year beginning on July 1 and ending on June 30 does not exceed one hundred dollars (\$100) per month, the ~~director~~ **secretary** may notify the taxpayer that a quarterly report and remittance in lieu of a monthly report may be made.

SECTION 4243. Arkansas Code § 26–58–114(a)(3), concerning reports, payment of taxes by producers, primary processors, cancellation of permit upon cessation of business, and the penalty for noncompliance, is amended to read as follows:

<< AR ST § 26–58–114 >>

(3) When the average amount of severance tax for which the taxpayer is liable for the previous fiscal year beginning on July 1 and ending on June 30 does not exceed twenty-five dollars (\$25.00) per month, the ~~director~~ **secretary** may notify the taxpayer that an annual report and remittance in lieu of a monthly report may be made on or before January 25 of each year for the preceding calendar year.

SECTION 4244. The introductory language of Arkansas Code § 26–58–114(b)(1)(A), concerning reports, payment of taxes by producers, primary processors, cancellation of permit upon cessation of business, and the penalty for noncompliance, is amended to read as follows:

<< AR ST § 26–58–114 >>

(b)(1)(A) A producer of natural gas shall file with the ~~director~~ **secretary** a report, in a form or forms prescribed by the ~~director~~ **secretary**, that states:

SECTION 4245. Arkansas Code § 26–58–114(b)(1)(A)(v), concerning reports, payment of taxes by producers, primary processors, cancellation of permit upon cessation of business, and the penalty for noncompliance, is amended to read as follows:

<< AR ST § 26–58–114 >>

(v) Any other information as the ~~director~~ **secretary** may reasonably require for the enforcement of this subchapter.

SECTION 4246. Arkansas Code § 26–58–114(b)(1)(C), concerning reports, payment of taxes by producers, primary processors, cancellation of permit upon cessation of business, and the penalty for noncompliance, is amended to read as follows:

<< AR ST § 26–58–114 >>

(C) The producer is required to file a report with the ~~director~~ **secretary** for each month whether or not the producer has actually severed natural gas during the month.

SECTION 4247. Arkansas Code § 26–58–114(b)(2)(A), concerning reports, payment of taxes by producers, primary processors, cancellation of permit upon cessation of business, and the penalty for noncompliance, is amended to read as follows:

<< AR ST § 26–58–114 >>

(2)(A) When the average amount of severance tax for which the taxpayer is liable for the previous fiscal year beginning on July 1 and ending on June 30 does not exceed one hundred dollars (\$100) per month, the ~~director~~ **secretary** may notify the taxpayer that a quarterly report and remittance in lieu of a monthly report may be made.

SECTION 4248. Arkansas Code § 26–58–114(b)(3), concerning reports, payment of taxes by producers, primary processors, cancellation of permit upon cessation of business, and the penalty for noncompliance, is amended to read as follows:

<< AR ST § 26–58–114 >>

(3) When the average amount of severance tax for which the taxpayer is liable for the previous fiscal year beginning on July 1 and ending on June 30 does not exceed twenty-five dollars (\$25.00) per month, the ~~director~~ **secretary** may notify the taxpayer that an annual report and remittance in lieu of a monthly report may be made on or before February 25 of each year for the preceding calendar year.

SECTION 4249. Arkansas Code § 26–58–114(e), concerning reports, payment of taxes by producers, primary processors, cancellation of permit upon cessation of business, and the penalty for noncompliance, is amended to read as follows:

<< AR ST § 26–58–114 >>

(e)(1) Within ten (10) days after any producer or primary processor ceases operation with the intention of no longer engaging in the business of severing or processing natural resources or timber, the permit issued shall be returned by him or her to the ~~director~~ **secretary** for cancellation.

(2) A producer or processor whose permit is cancelled under subdivision (e)(1) of this section may reengage in the business of severing or processing natural resources or timber after filing a new application with the ~~director~~ **secretary** and receiving a new permit by the ~~director~~ **secretary**.

SECTION 4250. Arkansas Code § 26–58–116(a)–(d), concerning reporting and payment of tax, are amended to read as follows:

<< AR ST § 26–58–116 >>

(a) Unless a purchaser of natural resources, excluding natural gas, is excused in writing by the ~~Director~~ **Secretary** of the Department of Finance and Administration in advance of the report filing deadline from filing a report, a purchaser of natural resources, excluding natural gas, shall file with the ~~director~~ **secretary** a verified report within twenty (20) days after the end of each reporting period in a form or forms prescribed by the ~~director~~ **secretary** that states:

- (1) The names and addresses of all producers from whom the purchaser has acquired natural resources during the respective reporting period;
- (2) The types and total quantity of each type of the natural resources acquired and the purchase price; and
- (3) Any other information as the ~~director~~ **secretary** reasonably may require for the proper enforcement of this subchapter.

(b)(1) Unless a purchaser of natural gas is excused in writing by the ~~director~~ **secretary** in advance of the report filing deadline from filing a report, a purchaser of natural gas shall file with the ~~director~~ **secretary** a report in a form or forms prescribed by the ~~director~~ **secretary** that states:

(A) The names, addresses, and severance tax permit numbers of all producers from whom the purchaser has purchased natural gas during each reporting period;

(B) The total quantity of natural gas acquired and the purchase price; and

(C) Any other information as the ~~director~~ **secretary** may reasonably require for the proper enforcement of this subchapter.

(2) The purchaser of natural gas shall file each report required under this subsection on or before the twenty-fifth day of the second month following the reporting period that is covered by the report.

(c)(1) It is the duty of each purchaser of natural resources, excluding natural gas, to ascertain in advance of permitting the natural resources so purchased to be processed or otherwise changed from the natural state thereof at the time of severance or to be transported for the purpose of such processing or other change that the severance tax upon the natural resources has been paid.

(2) Each purchaser of natural gas shall determine in advance of filing the report under subsection (b) of this section that each producer from whom the purchaser has purchased natural gas has been issued a severance tax permit number and furnish the ~~director~~ **secretary** the severance tax permit number of each producer under subsection (b) of this section.

(3)(A) The purchaser of natural resources, excluding natural gas, is primarily liable for any unpaid severance tax in the event of failure to make such advance ascertainment.

(B) Each purchaser of natural gas is primarily liable for any unpaid severance tax that is attributable to a producer from whom the purchaser purchased natural gas if the purchaser fails to furnish the ~~director~~ **secretary** with all of the information required in subsection (b) of this section.

(4) However, the purchaser as a condition to permitting the processing or other change of such natural resources, excluding natural gas, as to which the severance tax shall not have been paid by the producer may himself or herself pay such tax either in advance or, with the advance written approval of the ~~director~~ **secretary** for cause shown to the ~~director~~ **secretary**, within twenty (20) days after commencing the processing or other change of the natural resources or the transportation thereof for such purpose.

(d)(1) Unless the ~~director~~ **secretary** has given advance written approval for the removal under subsection (a) of this section, the removal by the purchaser of natural resources, excluding natural gas, to any point of concentration or assembly, either inside or outside the state, without the severance tax having been previously paid by the producer or the purchaser is a fraudulent concealment of the location of the natural resources with the intent to avoid the payment of the severance tax.

(2) Unless the ~~director~~ **secretary** has given advance written approval for the removal, the removal by the producer, purchaser, or primary processor of any timber to any point outside the state without the severance tax having been paid on the timber is unlawful.

SECTION 425I. The introductory language of Arkansas Code § 26-58-118(a), concerning reports and transporters, is amended to read as follows:

<< AR ST § 26-58-118 >>

(a) All transporters of natural resources, save and except only pipeline transporters, whenever and as often as requested by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall furnish a report under oath and upon forms prescribed by ~~director~~ **secretary** setting forth:

SECTION 4252. Arkansas Code § 26–58–118(a)(5), concerning reports and transporters, is amended to read as follows:

<< AR ST § 26–58–118 >>

(5) All such further information relating to the transportation of the natural resources as the ~~director~~ **secretary** may reasonably require for the proper enforcement of the provisions of this subchapter.

SECTION 4253. Arkansas Code § 26–58–119 is amended to read as follows:

<< AR ST § 26–58–119 >>

26–58–119. Procedure upon failure to file reports or pay tax, filing inaccurate reports — Penalties — Subpoenas.

(a)(1) In the event any producer or purchaser of natural resources or any primary processor of timber fails within the time provided for in this subchapter to file the verified reports required of them respectively, or in the event that the ~~Director~~ **Secretary** of the Department of Finance and Administration is not satisfied of the correctness of the reports as filed with the ~~director~~ **secretary**, or in the event any such producer or purchaser of natural resources or any primary processor of timber fails to pay all taxes due as provided in §§ 26–58–114 and 26–58–116, it shall be the duty of the ~~director~~ **secretary** to ascertain the true amount and value of the natural resources or timber severed and to assess the severance tax based thereon.

(2) For the purposes thereof the ~~director~~ **secretary** is authorized to require either the producer or purchaser or both of them, or the primary processor, to furnish the ~~director~~ **secretary** with such information, or further information, as the ~~director~~ **secretary** may deem necessary and to require the production, at such place as the ~~director~~ **secretary** may designate, of the books, records, and files of the producer and the purchaser or primary processor and to examine them and to take testimony of witnesses.

(3)(A) The ~~director~~ **secretary** shall assess a penalty equal to fifty percent (50%) of the amount of the severance tax, including the cost and expense of assessing the penalty, and shall make demand for payment of the penalty upon both the producer of natural resources and the purchaser of natural resources to the extent liability for the tax may be imposed on the purchaser under § 26–58–116 or the primary processor of timber, as the case may be.

(B) The penalty assessment under subdivision (a)(3)(A) of this section shall not apply to any estimated severance tax payment that is made in good faith by a producer of natural gas or a purchaser of natural gas.

(b)(1) If the producer, purchaser, or primary processor or any other such witness willfully fails to appear or to produce such books, records, and files before the ~~director~~ **secretary**, in obedience to the ~~director's~~ **secretary's** request, the ~~director~~ **secretary** shall certify the name of the reluctant producer, purchaser, primary processor, or other witness, with a statement of the circumstances to the circuit court of the county having jurisdiction over the person.

(2) The court shall thereupon issue a subpoena commanding the producer, purchaser, primary processor, or other witness to appear before the ~~director~~ **secretary**, at a place designated, on a day fixed, to be continued as occasion may require, and to give such evidence, and to produce for inspection such books and papers as may be required by the ~~director~~ **secretary** for a proper determination of the amount of taxes due.

(3) The court may hear and punish any contempt of such subpoena brought to the court's attention by the ~~director~~ **secretary**.

SECTION 4254. Arkansas Code § 26–58–120(a)(1) and (2), concerning the Arkansas Forestry Commission and their access to information and investigations, are amended to read as follows:

<< AR ST § 26–58–120 >>

(a)(1) The Arkansas Forestry Commission and the authorized representatives of the commission shall have access to all tax returns and other information and records of the ~~Director~~ **Secretary** of the Department of Finance and Administration related to the reporting and payment of taxes levied upon timber by this subchapter.

(2) The commission shall furnish the ~~director~~ **secretary** in writing the names of the forestry personnel who are authorized to have access to the timber tax records.

SECTION 4255. Arkansas Code § 26–58–120(d), concerning the Arkansas Forestry Commission and their access to information and investigations, are amended to read as follows:

<< AR ST § 26–58–120 >>

(d) If after completion of the inspection or investigation of a timber processor the commission finds that a timber processor is not collecting or remitting all taxes due under the provisions of this subchapter, the commission shall so advise the ~~director~~ **secretary** and shall furnish the ~~director~~ **secretary** the information upon which such finding is based.

SECTION 4256. Arkansas Code § 26–58–121 is amended to read as follows:

<< AR ST § 26–58–121 >>

26–58–121. Information provided to Arkansas Forestry Commission.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is directed to release any and all information requested by the Arkansas Forestry Commission which is related to the collection of timber severance taxes. This information shall include, but not be limited to, names, addresses, and amounts paid.

SECTION 4257. Arkansas Code § 26–58–122 is amended to read as follows:

<< AR ST § 26–58–122 >>

26–58–122. Procedures followed upon failure to pay severance taxes due the Arkansas Forestry Commission.

(a)(1) In the event that the Arkansas Forestry Commission determines that any individual or corporation has failed to pay all severance taxes due to the commission, the commission shall certify the commission's findings to the Revenue Division of the Department of Finance and Administration.

(2) Upon receipt thereof, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall immediately conduct an investigation of such matter.

(3) Within thirty (30) days of receipt of the certification, the ~~director~~ **secretary** shall report all findings to the commission.

(b) If the ~~director~~ **secretary** determines that all severance taxes due the commission are not being or have not been paid, the ~~director~~ **secretary** shall immediately proceed to institute any legal action necessary to collect such tax.

(c)(1) In the event the ~~director~~ **secretary** fails to report to the commission within the time specified or the commission disagrees with the findings of the ~~director~~ **secretary**, the State Forester shall file with the Governor, the Legislative Council, and the House ~~Interim~~ Committee on Revenue and Taxation and the Senate ~~Interim~~ Committee on Revenue and Taxation a report of the matter.

(2) The Governor shall then conduct an investigation into such failure to report by the ~~director~~ **secretary** or disagreement as to tax liability with the commission, take whatever measures the Governor deems necessary to rectify the situation, and shall notify the Legislative Council and the House ~~Interim~~ Committee on Revenue and Taxation and the Senate ~~Interim~~ Committee on Revenue and Taxation of the Governor's decision.

SECTION 4258. Arkansas Code § 26-58-124(a), concerning the distribution of severance taxes, is amended to read as follows:

<< AR ST § 26-58-124 >>

(a) All taxes, penalties, and costs collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration under the provisions of this subchapter, except for the taxes, penalties, and costs collected on natural gas, shall be deposited into the State Treasury to the credit of the State Apportionment Fund.

SECTION 4259. Arkansas Code § 26-58-124(b)(2)(D)(ii), concerning the distribution of severance taxes, is amended to read as follows:

<< AR ST § 26-58-124 >>

(ii) On or before the tenth of the month following the end of each calendar quarter, the Treasurer of State shall remit by state warrants to the various county treasurers all funds under subdivision (b)(2)(D)(i) of this section then received by him or her during the quarterly period and transferred to the County Aid Fund in the proportions of the funds as between the respective counties that, as certified by the ~~director~~ **secretary** to the Treasurer of State, the total severance tax produced from each respective county bears to the total of the taxes produced from all counties.

SECTION 4260. The introductory language of Arkansas Code § 26-58-124(c), concerning the distribution of severance taxes, is amended to read as follows:

<< AR ST § 26-58-124 >>

(c) All taxes, penalties, and costs collected by the ~~director~~ **secretary** on natural gas shall be deposited into the State Treasury as follows:

SECTION 4261. Arkansas Code § 26-58-201(2), concerning tax credits for certain oil and gas producers, is amended to read as follows:

<< AR ST § 26-58-201 >>

(2) "~~Director~~ **Secretary**" means the ~~Director~~ **Secretary** of the Department of Finance and Administration or any of his or her duly appointed deputies or agents;

SECTION 4262. Arkansas Code § 26–58–206(a), concerning a permit for tax credit, is amended to read as follows:

<< AR ST § 26–58–206 >>

(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 4263. Arkansas Code § 26–58–206(c), concerning a permit for tax credit, is amended to read as follows:

<< AR ST § 26–58–206 >>

(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 4264. Arkansas Code § 26–58–208(b)(2), concerning tax credits and the maximum annual credits allowed, is amended to read as follows:

<< AR ST § 26–58–208 >>

(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 4265. Arkansas Code § 26–58–208(c)(2), concerning tax credits and the maximum annual credits allowed, is amended to read as follows:

<< AR ST § 26–58–208 >>

(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 credits due all qualifying natural gas producers.

SECTION 4266. Arkansas Code § 26–58–208(d)(1), concerning tax credits and the maximum annual credits allowed, is amended to read as follows:

<< AR ST § 26–58–208 >>

(d)(1) A claim for a severance tax credit shall be filed with the ~~director~~ **secretary** on forms prescribed by the ~~director~~ **secretary** on or before April 1 of the calendar year following the calendar year in which the costs of maintaining the underground saltwater disposal system were incurred.

SECTION 4267. Arkansas Code § 26–58–208(g), concerning tax credits and the maximum annual credits allowed, is amended to read as follows:

<< AR ST § 26–58–208 >>

(g) The ~~director~~ **secretary** may promulgate rules to administer this section.

SECTION 4268. Arkansas Code § 26–58–209(1), concerning the cost of maintaining a saltwater disposal system, is amended to read as follows:

<< AR ST § 26–58–209 >>

(1) An allowance, to be spread equally over each severance tax reporting period, for depreciation of the actual cash investment of the producer in the constructing, equipping, and improving of an approved underground saltwater disposal system, which depreciation period shall not be less than five (5) years nor more than ten (10) years as may be approved by the ~~Director~~ **Secretary** of the Department of Finance and Administration;

SECTION 4269. Arkansas Code § 26–58–210 is amended to read as follows:

<< AR ST § 26–58–210 >>

26–58–210. Records.

A producer obtaining the benefits of the provisions of this subchapter shall maintain for a period of not less than three (3) years such records as may be required by the ~~Director~~ **Secretary** of the Department of Finance and Administration that may be necessary to justify the cost credits allowed by this subchapter.

SECTION 4270. Arkansas Code § 26–58–301(b)(2) and (3), concerning a levy for the benefit of the Arkansas Museum of Natural Resources Fund, are amended to read as follows:

<< AR ST § 26–58–301 >>

(2) The taxes levied in this subsection shall be reported and remitted monthly to the ~~Director~~ **Secretary** of the Department of Finance and Administration on such forms and in such manner as the ~~director~~ **secretary** shall prescribe by regulations.

(3) All revenues collected by the ~~director~~ **secretary** under the tax levied in this subsection shall be deposited into the State Treasury as special revenues, and the Treasurer of State after deducting from these special revenues the three percent (3%) provided by law for credit to the Constitutional Officers Fund and the State Central Services Fund shall credit the net amount to the Arkansas Museum of Natural Resources Fund to be used for the construction, maintenance, operation, and improvement of the Arkansas Museum of Natural Resources.

SECTION 4271. Arkansas Code § 26–58–302(a)(2), concerning an additional levy for the benefit of the Arkansas Museum of Natural Resources Fund, is amended to read as follows:

<< AR ST § 26–58–302 >>

(2) The taxes shall be reported and paid monthly to the ~~Director~~ **Secretary** of the Department of Finance and Administration by each producer of oil in such manner and upon such forms as the ~~director~~ **secretary** shall prescribe.

SECTION 4272. Arkansas Code § 26–58–302(b)(2), concerning an additional levy for the benefit of the Arkansas Museum of Natural Resources Fund, is amended to read as follows:

<< AR ST § 26–58–302 >>

(2) The tax shall be reported and paid monthly to the ~~director~~ **secretary** by each producer of brine and oil in such manner and upon such forms as the ~~director~~ **secretary** may prescribe.

SECTION 4273. Arkansas Code § 26–58–302(c)(1), concerning an additional levy for the benefit of the Arkansas Museum of Natural Resources Fund, is amended to read as follows:

<< AR ST § 26–58–302 >>

(c)(1) Funds collected by the ~~director~~ **secretary** under this section are classified as cash fund receipts, and the full amount of the funds shall be deposited into one (1) or more accounts in one (1) or more banks in this state, which account or accounts shall be designated “Arkansas Museum of Natural Resources Fund”.

SECTION 4274. Arkansas Code § 26–58–303(a)(2), concerning the levy for benefit of the Arkansas Museum of Natural Resources Bond Redemption Fund, is amended to read as follows:

<< AR ST § 26–58–303 >>

(2) The fee shall be reported and paid monthly to the ~~Director~~ **Secretary** of the Department of Finance and Administration by each producer of oil in such manner and upon such forms as the ~~director~~ **secretary** shall prescribe.

SECTION 4275. Arkansas Code § 26–58–303(b)(2), concerning the levy for benefit of the Arkansas Museum of Natural Resources Bond Redemption Fund, is amended to read as follows:

<< AR ST § 26–58–303 >>

(2) The fee shall be reported and paid monthly to the ~~director~~ **secretary** by each producer of brine and oil in such manner and upon such forms as the ~~director~~ **secretary** shall prescribe.

SECTION 4276. Arkansas Code § 26–59–102(2), concerning the definition of “director”, is repealed.

<< AR ST § 26–59–102 >>

(2) ~~“Director” means the Director of the Department of Finance and Administration;~~

SECTION 4277. Arkansas Code § 26–59–105 is amended to read as follows:

<< AR ST § 26–59–105 >>

26–59–105. Administration and enforcement of chapter.

Except as otherwise provided in this chapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall have jurisdiction and be charged with the administration and enforcement of the provisions of this chapter.

SECTION 4278. Arkansas Code § 26–59–109(b), concerning estate tax returns, is amended to read as follows:

<< AR ST § 26–59–109 >>

(b) Returns by Beneficiaries. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he or she shall include in his or her return a description of such part and the name of every person holding a legal or beneficial interest therein. Upon notice from the ~~Director~~ **Secretary** of the Department of Finance and Administration, such person shall in like manner make a return as to such part of the gross estate.

SECTION 4279. Arkansas Code § 26–59–109(d), concerning estate tax returns, is amended to read as follows:

<< AR ST § 26–59–109 >>

(d) Place of Filing. Estate tax returns shall be filed with the ~~director~~ **secretary** at his or her office in Little Rock, Arkansas.

SECTION 4280. The introductory language of Arkansas Code § 26–59–110, concerning the contents of estate tax returns, is amended to read as follows:

<< AR ST § 26–59–110 >>

The executor at such times and in such manner as may be required by regulations made pursuant to law shall also file with the ~~Director~~ **Secretary** of the Department of Finance and Administration a return under oath, setting forth:

SECTION 4281. Arkansas Code § 26–59–111(b) and (c), concerning an estate tax return and an extension of filing time, are amended to read as follows:

<< AR ST § 26–59–111 >>

(b) This request for extension of time in which to file shall be granted by the timely filing of a copy of the federal application form with the ~~Director~~ **Secretary** of the Department of Finance and Administration and then attaching to the Arkansas estate tax return, when actually filed with the ~~director~~ **secretary**, a copy of the document granting such federal extension.

(c) The ~~director~~ **secretary** shall assess interest at the rate of ten percent (10%) per annum on the amount of estate tax finally determined to be due from the date the estate tax return was originally due to be filed.

SECTION 4282. Arkansas Code § 26–59–112 is amended to read as follows:

<< AR ST § 26–59–112 >>

26–59–112. Director Secretary to make return when no return filed.

If any executor, administrator, fiduciary, trustee, person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall make the return or list from the ~~director's~~ **secretary's** own knowledge and from such information as the ~~director~~ **secretary** can obtain through testimony or otherwise. Any return or list so made by the ~~director~~ **secretary** shall be prima facie good and sufficient for all legal purposes.

SECTION 4283. Arkansas Code § 26–59–113(a), concerning payment, time limitations, and federal elections, is amended to read as follows:

<< AR ST § 26–59–113 >>

(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 4284. Arkansas Code § 26–59–113(b)(1)(A), concerning payment, time limitations, and federal elections, is amended to read as follows:

<< AR ST § 26–59–113 >>

(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 4285. Arkansas Code § 26–59–114(a) and (b), concerning the payment of tax and discharge of executors, are amended to read as follows:

<< AR ST § 26–59–114 >>

(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 4286. Arkansas Code § 26–59–116(b), concerning the payment of taxes and reimbursement to a person paying taxes, is amended to read as follows:

<< AR ST § 26–59–116 >>

(b) It is the purpose and intent of this section that insofar as is practical and unless otherwise directed by the will of the decedent, the tax shall be paid out of the estate before its distribution. However, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall not be charged with enforcing contribution from any person.

SECTION 4287. Arkansas Code § 26–59–119 is amended to read as follows:

<< AR ST § 26–59–119 >>

26–59–119. Executor — Notice of appointment.

The executor within two (2) months after the decedent's death or within a like period after qualifying as executor, shall give written notice of his or her qualification as executor to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4288. Arkansas Code § 26–59–122(a), concerning the disposition and allocation of funds, is amended to read as follows:

<< AR ST § 26–59–122 >>

(a) All taxes, fees, penalties, and costs received by the ~~Director~~ **Secretary** of the Department of Finance and Administration under the provisions of this chapter shall be general revenues and shall be deposited into the State Treasury to the credit of the State Apportionment Fund, except that the amount of estate taxes collected in a calendar year that exceeds ten percent (10%) of the average annual estate taxes collected for a five-year period immediately preceding the calendar year or fifteen million dollars (\$15,000,000), whichever is greater, shall be deposited into the State Treasury as special revenues and credited to the General Improvement Fund.

SECTION 4289. Arkansas Code § 26–60–103 is amended to read as follows:

<< AR ST § 26–60–103 >>

26–60–103. Enforcement and regulations by ~~Director~~ Secretary of the Department of Finance and Administration.

The enforcement of the provisions of this chapter shall be the responsibility of the ~~Director~~ **Secretary** of the Department of Finance and Administration under regulations to be promulgated by the ~~director~~ **secretary**.

SECTION 4290. Arkansas Code § 26–60–107(a)(1), concerning a Real Property Transfer Tax Affidavit of Compliance Form, is amended to read as follows:

<< AR ST § 26–60–107 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall design a “Real Property Transfer Tax Affidavit of Compliance” form.

SECTION 4291. Arkansas Code § 26–60–107(b)(2), concerning a Real Property Transfer Tax Affidavit of Compliance Form, is amended to read as follows:

<< AR ST § 26–60–107 >>

(2) The ~~director~~ **secretary** shall furnish the “Real Property Transfer Tax Affidavit of Compliance” forms to each revenue office in each county of this state and may make these forms available to the county recorder or any other interested persons in each county upon request to the ~~director~~ **secretary**.

SECTION 4292. Arkansas Code § 26–60–107(d)(1), concerning a Real Property Transfer Tax Affidavit of Compliance Form, is amended to read as follows:

<< AR ST § 26–60–107 >>

(d)(1) The affidavits in the files of the ~~director~~ **secretary** are public records governed by the same rules as are applied to the disclosure of motor vehicle titling and registration information.

SECTION 4293. The introductory language of Arkansas Code § 26-60-107(f), concerning a Real Property Transfer Tax Affidavit of Compliance Form, is amended to read as follows:

<< AR ST § 26-60-107 >>

(f) The ~~director~~ **secretary** may:

SECTION 4294. Arkansas Code § 26-60-107(f)(1)(B) and (C), concerning a Real Property Transfer Tax Affidavit of Compliance Form, are amended to read as follows:

<< AR ST § 26-60-107 >>

(B) The ~~director~~ **secretary** shall collaborate with attorneys at law, representatives of title companies, county recorders, and other interested parties to recommend an alternative method of providing proof of compliance with the real property transfer tax.

(C) If an investigation is undertaken, the ~~director~~ **secretary** shall complete the investigation by July 1, 2012; and

SECTION 4295. Arkansas Code § 26-60-107(f)(2)(B), concerning a Real Property Transfer Tax Affidavit of Compliance Form, is amended to read as follows:

<< AR ST § 26-60-107 >>

(B) Before promulgating any rules, the ~~director~~ **secretary** shall report the finding of the investigation authorized under subdivision (f)(1) of this section to the Speaker of the House of Representatives and the President Pro Tempore of the Senate if the General Assembly is in session or to the Legislative Council during an interim.

SECTION 4296. Arkansas Code § 26-60-108 is amended to read as follows:

<< AR ST § 26-60-108 >>

26-60-108. Real Property Transfer Tax Affidavit of Compliance and Receipt — Completion, storage, audit, etc.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her agent before accepting payment of the real property transfer tax shall require that the affidavit portion of the Real Property Transfer Tax Affidavit of Compliance form and receipt be completed, including the statement of the full amount of the consideration for the transaction and the amount of tax to be reflected on the receipt portion thereof in evidence that such information was furnished by the person signing the affidavit before the ~~director~~ **secretary** shall receive payment of the tax, and sign the receipt. The ~~director~~ **secretary** shall attach the stamps to the face of the instrument.

(b)(1) The original copy of the affidavit and receipt shall be retained by the ~~director~~ **secretary** or his or her agent and shall be treated as a confidential tax record in the same manner as required by law for confidentiality of state income tax returns.

(2) The information shall be released to duly elected county assessors and become a public document.

(c) If authorized by the ~~director~~ **secretary**, an electronic copy of an affidavit described in this section may be used and retained in the same manner as other electronic documents.

SECTION 4297. The introductory language of Arkansas Code § 26-60-109(a), concerning documentary stamps or symbols, is amended to read as follows:

<< AR ST § 26-60-109 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall:

SECTION 4298. The introductory language of Arkansas Code § 26-60-109(b), concerning documentary stamps or symbols, is amended to read as follows:

<< AR ST § 26-60-109 >>

(b) The ~~director~~ **secretary** may:

SECTION 4299. Arkansas Code § 26-60-109(b)(1)(B) and (C), concerning documentary stamps or symbols, are amended to read as follows:

<< AR ST § 26-60-109 >>

(B) The ~~director~~ **secretary** shall collaborate with attorneys at law, representatives of title companies, county recorders, and other interested parties to recommend possible alternative methods of providing proof of payment of the real property transfer tax.

(C) If an investigation is undertaken, the ~~director~~ **secretary** shall complete the investigation by July 1, 2012; and

SECTION 4300. Arkansas Code § 26-60-109(b)(2)(B), concerning documentary stamps or symbols, is amended to read as follows:

<< AR ST § 26-60-109 >>

(B) Before promulgating any rules, the ~~director~~ **secretary** shall report the finding of the investigation authorized under § 26-60-107(f)(1) to the Speaker of the House of Representatives and the President Pro Tempore of the Senate if the General Assembly is in session or to the Legislative Council during the interim.

SECTION 4301. The introductory language of Arkansas Code § 26-60-112(b), concerning the disposition of funds collected from taxes, is amended to read as follows:

<< AR ST § 26-60-112 >>

(b) The revenues derived from the tax levied by § 26-60-105(a) shall be deposited by the ~~Director~~ **Secretary** of the Department of Finance and Administration into the State Treasury, and the Treasurer of State after deducting three

percent (3%) of the revenues for distribution to the Constitutional Officers Fund and the State Central Services Fund to be used for the purposes as provided by law shall distribute the net amount of the revenues as follows:

SECTION 4302. Arkansas Code § 26-62-102(4) and (5), concerning the definitions under the alternative fuels tax laws, are amended to read as follows:

<< AR ST § 26-62-102 >>

(4) “Director” means the ~~Director~~ of the Department of Finance and Administration or his or her duly authorized agents;

(5) “Gallon equivalent” or “equivalent gallon” means a quantity of alternative fuels which is the equivalent of one United States gallon (1 U.S. gal.) of gasoline as determined by the ~~director~~ **secretary** based on United States standards or industry standards, provided that one United States gallon (1 U.S. gal.) of gasoline shall be the equivalent of one hundred cubic feet (100 c.f.) of natural gas fuels;

SECTION 4303. Arkansas Code § 26-62-104 is amended to read as follows:

<< AR ST § 26-62-104 >>

26-62-104. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized and empowered in consultation with the Director of State Highways and Transportation of the Arkansas Department of Transportation to make and promulgate such rules and regulations not inconsistent with this chapter as they shall deem necessary and desirable to facilitate the collection of the taxes levied in this chapter and to otherwise effectuate the purposes of this chapter, and these rules and regulations shall have the same effect as if specifically set forth in this chapter.

SECTION 4304. Arkansas Code § 26-62-105(a), concerning the failure or refusal to report or pay taxes, is amended to read as follows:

<< AR ST § 26-62-105 >>

(a) Once an alternative fuels supplier, user, interstate user, or IFTA carrier user of alternative fuels has become liable to file a report with the ~~Director~~ **Secretary** of the Department of Finance and Administration, he or she must continue to file a report, even though no tax is due, until such time as he or she notifies the ~~director~~ **secretary** in writing that he or she is no longer liable for those reports.

SECTION 4305. Arkansas Code § 26-62-111 is amended to read as follows:

<< AR ST § 26-62-111 >>

26-62-111. Audits.

In all audits conducted by the Arkansas Department of Transportation under this chapter, the Arkansas Department of Transportation may call upon the ~~Director~~ **Secretary** of the Department of Finance and Administration for assistance.

SECTION 4306. Arkansas Code § 26-62-201(a)(2), concerning the imposition of taxes and exemptions, is amended to read as follows:

<< AR ST § 26-62-201 >>

(2) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall determine the various types of alternative fuels being utilized in this state and the applicable rates to be imposed for each type fuel in accordance with the following provisions of this section, provided that the ~~Director~~ **Secretary** of the Department of Finance and Administration in his or her initial determination at a minimum shall find at least one (1) type of alternative fuels, specifically, natural gas fuels.

SECTION 4307. Arkansas Code § 26-62-201(c)(1), concerning the imposition of taxes and exemptions, is amended to read as follows:

<< AR ST § 26-62-201 >>

~~(c)(1)(A)(i) The tax rate set forth in subsection (b) of this section for each type of alternative fuels from July 1, 1993, through March 31, 1994, shall be determined and published by the Director of the Department of Finance and Administration prior to June 1, 1993, and such rates shall be effective for each type of alternative fuels through March 31, 1994.~~

(ii) The tax rate set forth in subsection (b) of this section for each type of alternative fuels shall be adjusted if necessary by the ~~Director~~ **Secretary** of the Department of Finance and Administration ~~to be effective on April 1, 1994, and~~ on April 1 of each year thereafter based upon the number of vehicles utilizing alternative fuels, by each type of alternative fuels, licensed in this state, as determined by the ~~Director~~ **Secretary** of the Department of Finance and Administration, as of December 31 of the preceding calendar year.

(B) If a change in the tax rate in accordance with subsection (b) of this section for any type of alternative fuels is required, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall include this in the report required by this section, and the ~~Director~~ **Secretary** of the Department of Finance and Administration shall also notify each alternative fuels supplier of the new tax rate not later than thirty (30) days prior to the effective date of such change.

SECTION 4308. Arkansas Code § 26-62-201(e) and (f), concerning the imposition of taxes and exemptions, are amended to read as follows:

<< AR ST § 26-62-201 >>

(e)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration may develop a procedure in which the type of alternative fuels or other type of fuel is noted on the certificate of title or certificate of registration of an alternative fuels vehicle.

(2) It is the intention of this subsection to develop a system for the ~~Director~~ **Secretary** of the Department of Finance and Administration and other officials of the State of Arkansas to know the precise number of vehicles using alternative fuels and other fuels licensed in this state, both in the aggregate and by the type of fuel propelling the vehicles.

(f) Not later than February 15 each year, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall file a written report with the Director of State Highways and Transportation setting forth the number of vehicles using alternative fuels and other types of fuels licensed in this state as of the end of the preceding calendar year, both in the aggregate and by each type of fuel, and the amount of tax revenue received by the State of Arkansas on the tax levied by this chapter. The ~~Director~~ **Secretary** of the Department of Finance and Administration shall also state the tax rate for the next twelve (12) months, beginning as of the first day of April of each year for each type of alternative fuel.

SECTION 4309. Arkansas Code § 26-62-202(a)(3), concerning the collection and payment of tax, is amended to read as follows:

<< AR ST § 26-62-202 >>

(3) Used in any motor vehicle owned or operated by that alternative fuels supplier. The ~~Director~~ **Secretary** of the Department of Finance and Administration shall make and promulgate rules and regulations for a system for recordkeeping requirements to be kept by such suppliers in fulfilling this subdivision (a)(3).

SECTION 4310. Arkansas Code § 26-62-203(c)(1), concerning separate meters for taxable natural gas fuels and residential or other tax-free natural gas, is amended to read as follows:

<< AR ST § 26-62-203 >>

(c)(1) Such users shall be licensed and bonded only if required by § 26-62-204 but shall remit all taxes to the alternative fuels supplier upon billing by that supplier, which supplier shall further remit such taxes to the ~~Director~~ **Secretary** of the Department of Finance and Administration as provided in § 26-62-206.

SECTION 4311. The introductory language of Arkansas Code § 26-62-203(c)(2), concerning separate meters for taxable natural gas fuels and residential or other tax-free natural gas, is amended to read as follows:

<< AR ST § 26-62-203 >>

(2) Such user, however, at the time of the installation of the separate meter shall report to the ~~director~~ **secretary** the:

SECTION 4312. Arkansas Code § 26-62-203(c)(2)(E), concerning separate meters for taxable natural gas fuels and residential or other tax-free natural gas, is amended to read as follows:

<< AR ST § 26-62-203 >>

(E) Any other information required by the ~~director~~ **secretary** pursuant to rules and regulations of the ~~director~~ **secretary**.

SECTION 4313. Arkansas Code § 26-62-204(a), concerning licenses and bonds for alternative fuels suppliers, interstate users, and IFTA carrier users, is amended to read as follows:

<< AR ST § 26-62-204 >>

(a) No person shall commence operations as an alternative fuels supplier, interstate user, or IFTA carrier user of alternative fuels without first procuring a license for that purpose from the ~~Director~~ **Secretary** of the Department of Finance and Administration. This license shall be issued and remain in effect until revoked as provided in this section.

SECTION 4314. Arkansas Code § 26-62-204(c), concerning licenses and bonds for alternative fuels suppliers, interstate users, and IFTA carrier users, is amended to read as follows:

<< AR ST § 26-62-204 >>

(c)(1)(A) Every alternative fuels supplier shall file with the ~~director~~ **secretary** a surety bond of not less than one and one-half (1 ½) times or one hundred fifty percent (150%) of the prior six-months' average alternative fuels tax due which is based upon the gallon equivalent of alternative fuels to be sold or distributed:

(i) As shown by the application for a license if the applicant has not previously been engaged in the business of an alternative fuels supplier; or

(ii) As shown by sales for the previous year if the applicant previously has been engaged in such business in this state.

(B) However, no bond shall be filed for less than one thousand dollars (\$1,000).

(2) If the ~~director~~ **secretary** deems it necessary to protect the state in the collection of alternative fuels taxes, the ~~director~~ **secretary** may require any alternative fuels supplier to post a bond in an amount up to three (3) times or three hundred percent (300%) of the prior six (6) months' average alternative fuels tax due.

(3)(A) However, the ~~director~~ **secretary** is authorized to waive the posting of bond by any licensed alternative fuels supplier organized and operating under the laws of Arkansas and wholly owned by residents of this state who has been licensed for a period of at least three (3) years and who has not been delinquent in remitting alternative fuels taxes during the three-year period immediately preceding application by the alternative fuels supplier for waiver of bond.

(B) If any alternative fuels supplier whose bond has been waived by the ~~director~~ **secretary** as authorized in subdivision (c)(3)(A) of this section subsequently becomes delinquent in remitting alternative fuels taxes to the ~~director~~ **secretary**, the ~~director~~ **secretary** may require that the alternative fuels supplier post a bond in the amount required in this section, and the alternative fuels supplier shall not be eligible to petition for a waiver of bond for a period of three (3) years thereafter.

SECTION 4315. Arkansas Code § 26-62-204(d)(1), concerning licenses and bonds for alternative fuels suppliers, interstate users, and IFTA carrier users, is amended to read as follows:

<< AR ST § 26-62-204 >>

(d)(1) Each application of an interstate user or IFTA carrier user for a license shall be accompanied by a surety bond of a surety company authorized to do business in this state, in favor of the ~~director~~ **secretary**, satisfactory to the ~~director~~ **secretary**, and in an amount to be fixed by the ~~director~~ **secretary** of not less than one thousand dollars (\$1,000) nor more than fifty thousand dollars (\$50,000), guaranteeing the payment of any and all taxes, penalties, interest, attorney's fees, and costs levied by, accrued, or accruing under this chapter.

SECTION 4316. Arkansas Code § 26-62-204(e)(2), concerning licenses and bonds for alternative fuels suppliers, interstate users, and IFTA carrier users, is amended to read as follows:

<< AR ST § 26-62-204 >>

(2) The bond shall be conditioned upon the prompt filing of true reports and the payment by the alternative fuels supplier, interstate user, or IFTA carrier user to the ~~director~~ **secretary** of any and all alternative fuels taxes which are levied or imposed by the State of Arkansas, together with any and all penalties and interest thereon, and generally, upon faithful compliance with the provisions of this chapter.

SECTION 4317. Arkansas Code § 26-62-204(f)-(i), concerning licenses and bonds for alternative fuels suppliers, interstate users, and IFTA carrier users, are amended to read as follows:

<< AR ST § 26-62-204 >>

(f)(1) In the event that liability upon the bond filed pursuant to this section by the alternative fuels supplier, interstate user, or IFTA carrier user with the ~~director~~ **secretary** shall be discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if, in the opinion of the ~~director~~ **secretary**, any surety on the bond shall have become unsatisfactory or unacceptable, then the ~~director~~ **secretary** may require the filing of a new bond with a satisfactory surety in the same form and amount; failing which, the ~~director~~ **secretary** shall immediately cancel the license of the alternative fuels supplier, interstate user, or IFTA carrier user.

(2) If a new bond shall be furnished, the ~~director~~ **secretary** shall cancel the bonds for which the new bond shall be substituted.

(g) In the event that upon hearing of which the alternative fuels supplier, interstate user, or IFTA carrier user shall be given five (5) days' notice in writing, the ~~director~~ **secretary** shall decide that the amount of the existing bond is insufficient to ensure payment to the State of Arkansas of the amount of the tax and any penalties and interest for which said alternative fuels supplier, interstate user, or IFTA carrier user is or may at any time become liable, then the alternative fuels supplier, interstate user, or IFTA carrier user upon written demand of the ~~director~~ **secretary** shall immediately file an additional bond in the same manner and form and with a surety company thereon approved by the ~~director~~ **secretary** in any amount determined by the ~~director~~ **secretary** to be necessary to secure at all times the payment to the State of Arkansas of all taxes, penalties, and interest due under the provisions of this chapter; failing which, the ~~director~~ **secretary** shall immediately cancel the license of the alternative fuels supplier, interstate user, or IFTA carrier user.

(h)(1)(A) Any surety on any bond furnished as provided in this section shall be released and discharged from any and all liability to the State of Arkansas accruing on the bond after the expiration of sixty (60) days from the date upon which a surety shall have lodged with the ~~director~~ **secretary** a written request to be released and discharged.

(B) However, the request shall not operate to relieve, release, or discharge the surety from any liability already accrued, or which shall accrue, before the expiration of the sixty-day period.

(2) Upon receipt of notice of such request, the ~~director~~ **secretary** shall promptly notify the alternative fuels supplier, interstate user, or IFTA carrier user who furnished the bond, and unless the alternative fuels supplier, interstate user, or IFTA carrier user, on or before the expiration of the sixty-day period, files with the ~~director~~ **secretary** a new bond with a surety company satisfactory to the ~~director~~ **secretary** in the amount and form as provided in this section, the ~~director~~ **secretary** shall immediately cancel the license of that alternative fuels supplier, interstate user, or IFTA carrier user.

(3) If a new bond shall be furnished as provided in this section, the ~~director~~ **secretary** shall cancel the bond for which the new bond shall be substituted.

(i) In lieu of furnishing a bond or bonds executed by a surety company as provided in this section, any alternative fuels supplier, interstate user, or IFTA carrier user may furnish a bond or other instrument, in form prescribed by the ~~director~~ **secretary**, equal to the amount of the bond or bonds required by this section which will provide security or payment of all amounts as described in this section and in compliance with all provisions of this chapter.

SECTION 4318. Arkansas Code § 26-62-204(j)(2), concerning licenses and bonds for alternative fuels suppliers, interstate users, and IFTA carrier users, are amended to read as follows:

<< AR ST § 26-62-204 >>

(2)(A) Should his or her license be revoked, any alternative fuels supplier, interstate user, or IFTA carrier user may bring an action against the ~~director~~ **secretary** in the Pulaski County Circuit Court within fifteen (15) days of the date of revocation to determine whether or not the alternative fuels supplier, interstate user, or IFTA carrier user has in fact violated any of the provisions of this chapter.

(B) If the court determines that the provisions of the law have been violated by the alternative fuels supplier, interstate user, or IFTA carrier user, it shall affirm the ~~director's~~ **secretary's** action in revoking the license.

SECTION 4319. Arkansas Code § 26-62-205(a)(2)(F), concerning sales tickets in regards to alternative fuels, is amended to read as follows:

<< AR ST § 26-62-205 >>

(F) Such other information as the ~~Director~~ **Secretary** of the Department of Finance and Administration may require.

SECTION 4320. Arkansas Code § 26-62-205(b)(2), concerning sales tickets in regards to alternative fuels, is amended to read as follows:

<< AR ST § 26-62-205 >>

(2) The remaining copy shall be retained by the alternative fuels supplier as a record for a period of at least three (3) years, during which period it shall be subject to inspection by the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her representative at all reasonable times.

SECTION 4321. Arkansas Code § 26-62-205(c), concerning sales tickets in regards to alternative fuels, is amended to read as follows:

<< AR ST § 26-62-205 >>

(c) The sales tickets as described in subsections (a) and (b) of this section shall be the only evidence accepted for tax credit by the ~~Director~~ **Secretary** of the Department of Finance and Administration under the provisions of § 26-62-209.

SECTION 4322. Arkansas Code § 26-62-205(e)(1), concerning sales tickets in regards to alternative fuels, is amended to read as follows:

<< AR ST § 26-62-205 >>

(e)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration, in consultation with the Director of State Highways and Transportation shall promulgate rules and regulations regarding an alternative to the required usage of sales tickets for all sales of natural gas fuels made by alternative fuels suppliers by separate meter as provided in § 26-62-203.

SECTION 4323. Arkansas Code § 26-62-206(a)(1), concerning alternative fuels suppliers' and users' reports and computation and remittance of tax, is amended to read as follows:

<< AR ST § 26-62-206 >>

(a)(1) Every alternative fuels supplier on or before the twenty-fifth day of each calendar month shall file with the ~~Director~~ **Secretary** of the Department of Finance and Administration on forms prescribed by the ~~director~~ **secretary** a report accounting for the alternative fuels taxable under this chapter during the preceding month and shall remit all taxes as reflected by the report to the ~~director~~ **secretary** at the time of filing such report.

SECTION 4324. Arkansas Code § 26-62-206(a)(2)(D), concerning alternative fuels suppliers' and users' reports and computation and remittance of tax, is amended to read as follows:

<< AR ST § 26-62-206 >>

(D) Such other documents as the ~~director~~ **secretary** requires.

SECTION 4325. Arkansas Code § 26-62-206(b), concerning alternative fuels suppliers' and users' reports and computation and remittance of tax, is amended to read as follows:

<< AR ST § 26-62-206 >>

(b) Every interstate user and IFTA carrier user, on or before the twenty-fifth day of the month following the end of each calendar quarter, shall file with the ~~director~~ **secretary** on forms prescribed by the ~~director~~ **secretary** an itemized report showing the quantities of alternative fuels purchased and used in this state during the preceding calendar quarter, together with payments of the tax due thereon.

SECTION 4326. Arkansas Code § 26-62-207(b)(3)(B), concerning the requirement of records, invoices, and the falsification of records in regards to the Arkansas Tax Procedure Act, is amended to read as follows:

<< AR ST § 26-62-207 >>

(B) 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 4327. Arkansas Code § 26–62–207(c)(1), concerning the requirement of records, invoices, and the falsification of records in regards to the Arkansas Tax Procedure Act, is amended to read as follows:

<< AR ST § 26–62–207 >>

(c)(1) Every person who operates a motor vehicle that is equipped to use motor fuels taxable under the Motor Fuel Tax Law, § 26–55–201 et seq., or equipped to use distillate special fuels taxable under the Special Motor Fuels Tax Law, § 26–56–101 et seq., and alternative fuels interchangeably in the propulsion of the motor vehicle shall carry in the cab compartment of the motor vehicle for inspection by the ~~director~~ **secretary** or his or her representative not only the counterpart of the serially-numbered invoice required under subsection (b) of this section for the delivery of alternative fuels into the fuel supply tanks of the motor vehicle but also an invoice or receipt from the seller for each delivery into the fuel supply tanks of the motor vehicle of motor fuels taxable under the Motor Fuel Tax Law, § 26–55–201 et seq., or of distillate special fuels taxable under the Special Motor Fuels Tax Law, § 26–56–101 et seq., which latter invoices or receipts shall show the same information as to date of delivery, quantity, odometer or hub meter mileage, and motor vehicle registration number as is required for the invoice covering alternative fuels.

SECTION 4328. Arkansas Code § 26–62–207(e), concerning the requirement of records, invoices, and the falsification of records in regards to the Arkansas Tax Procedure Act, is amended to read as follows:

<< AR ST § 26–62–207 >>

(e) All sales to users made pursuant to § 26–62–203 shall not require the carriage of an invoice by the user, provided that the ~~director~~ **secretary** shall provide by regulation another means of providing an indication that the tax on the fuel being utilized to propel the motor vehicle will ultimately be paid by the user to the alternative fuels supplier, who is required to remit such tax to the ~~director~~ **secretary**.

SECTION 4329. Arkansas Code § 26–62–208(a), concerning prima facie presumptions, failure to keep records, issuing of invoices or file reports, taxes, penalties, and interest in regards to alternate fuel suppliers, is amended to read as follows:

<< AR ST § 26–62–208 >>

(a) Any alternative fuels supplier, user, interstate user, or IFTA carrier user who fails to keep the records, issue the invoices, or file the reports required by this chapter shall be prima facie presumed to have sold, delivered, or used for taxable purposes all alternative fuels shown by a verified audit by the Arkansas Department of Transportation, the ~~Director~~ **Secretary** of the Department of Finance and Administration, or any authorized representative.

SECTION 4330. Arkansas Code § 26–62–208(b)(1), concerning prima facie presumptions, failure to keep records, issuing of invoices or file reports, taxes, penalties, and interest in regards to alternate fuel suppliers, is amended to read as follows:

<< AR ST § 26–62–208 >>

(b)(1) The ~~director~~ **secretary** is authorized to fix or establish the amount of taxes, penalties, and interest due the State of Arkansas from any record or information available to the ~~director~~ **secretary**, or to the Arkansas Department of Transportation, and if the tax claim as developed from that procedure is not paid, the claim and any audit made by the Arkansas Department of Transportation, the ~~director~~ **secretary**, or an authorized representative, or any report filed by such alternative fuels supplier, user, interstate user, or IFTA carrier user shall be admissible in evidence in any suit or judicial proceedings filed by the ~~director~~ **secretary** and shall be prima facie evidence of the correctness of said claim or audit.

SECTION 4331. Arkansas Code § 26-62-209(a) and (b), concerning interstate users and IFTA carrier users, reports, and computation of tax and refunds, are amended to read as follows:

<< AR ST § 26-62-209 >>

(a) For the purpose of determining whether an interstate user or IFTA carrier user owes alternative fuels tax or is entitled to a credit or refund, the licensed interstate user or licensed IFTA carrier user shall file a quarterly report on or before the twenty-fifth day of the month following the end of each calendar quarter, which shall be made on forms prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration, which forms shall include such information as the ~~director~~ **secretary** may require.

(b) If it shall be determined by the quarterly report that the licensed interstate user or licensed IFTA carrier user has used alternative fuels in this state in excess of the number of equivalent gallons of the fuel upon which the Arkansas tax had been paid, the interstate user or IFTA carrier user shall remit to the ~~director~~ **secretary** at the time of filing the report an excise tax at the rate as previously determined in accordance with § 26-62-201 per equivalent gallon for the taxable quarter multiplied by the number of equivalent gallons used on which the tax has not been paid.

SECTION 4332. Arkansas Code § 26-62-209(h)(2), concerning interstate users and IFTA carrier users, reports, and computation of tax and refunds, are amended to read as follows:

<< AR ST § 26-62-209 >>

(2) A licensed interstate user or licensed IFTA carrier user who has a total tax liability for alternative fuels tax during the previous calendar year of less than one hundred dollars (\$100) upon application to the ~~director~~ **secretary** may obtain permission to report his or her alternative fuels tax liability on an annual basis. The annual report shall be due on or before the twenty-fifth day of the month following the end of each fiscal year.

SECTION 4333. Arkansas Code § 26-62-209(i), concerning interstate users and IFTA carrier users, reports, and computation of tax and refunds, are amended to read as follows:

<< AR ST § 26-62-209 >>

(i) The ~~director~~ **secretary** shall prescribe the appropriate forms necessary for the administration of this chapter. The ~~director~~ **secretary** may make appropriate rules and regulations necessary to ensure the accurate reporting of the alternative fuels tax.

SECTION 4334. Arkansas Code § 26-62-210(a)(1), concerning interstate users and IFTA carrier users as well as tax refund procedure, is amended to read as follows:

<< AR ST § 26-62-210 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall quarterly estimate the amount necessary to pay refunds to licensed interstate users and licensed IFTA carrier users of alternative fuels who are entitled to refunds with respect to alternative fuels taxes paid in this state as authorized in § 26-62-209, and upon certification by the ~~Director~~ **Secretary** of the Department of Finance and Administration, the Treasurer of State shall transfer from the gross amount of alternative fuels taxes collected each month the amount to the Interstate Alternative Fuels 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 4335. Arkansas Code § 26-62-210(c), concerning interstate users and IFTA carrier users as well as tax refund procedure, is amended to read as follows:

<< AR ST § 26-62-210 >>

(c) Neither the ~~Director~~ **Secretary** of the Department of Finance and Administration nor any member or employee of the Department of Finance and Administration shall be held personally liable for making any refund by reason of a fraudulent claim's being filed as a basis for such refund.

SECTION 4336. The introductory language of Arkansas Code § 26-62-210(d), concerning interstate users and IFTA carrier users as well as tax refund procedure, is amended to read as follows:

<< AR ST § 26-62-210 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration in consultation with the Director of State Highways and Transportation is authorized to promulgate rules and regulations and to prescribe the necessary forms required for the administration of claims for tax refunds from licensed interstate users or licensed IFTA carrier users of alternative fuels in this state as authorized by law, which rules and regulations shall be in conformance with the following requirements:

SECTION 4337. Arkansas Code § 26-62-210(d)(1) and (2), concerning interstate users and IFTA carrier users as well as tax refund procedure, are amended to read as follows:

<< AR ST § 26-62-210 >>

(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall first determine with respect to each refund claim filed that the bond of the interstate user or IFTA carrier user is adequate to compensate the State of Arkansas for any losses with respect to the recovery of any refunds illegally claimed by such user, and the ~~Director~~ **Secretary** of the Department of Finance and Administration may require the increase of the bond if the ~~Director~~ **Secretary** of the Department of Finance and Administration determines it to be inadequate before approving any such claim for refund;

(2) Each licensed interstate user or licensed IFTA carrier user of alternative fuels claiming refunds shall maintain adequate records to substantiate each claim for refund, and the ~~Director~~ **Secretary** of the Department of Finance and Administration may reject any claim for refund if the ~~Director~~ **Secretary** of the Department of Finance and Administration determines the applicant has not maintained adequate records or has not conformed to the rules and regulations of the Department of Finance and Administration in filing the claim therefor;

SECTION 4338. Arkansas Code § 26-62-210(d)(5), concerning interstate users and IFTA carrier users as well as tax refund procedure, is amended to read as follows:

<< AR ST § 26-62-210 >>

(5) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to promulgate any such rules or regulations the ~~Director~~ **Secretary** of the Department of Finance and Administration deems desirable in consultation with the Director of State Highways and Transportation regarding refunds to licensed interstate users and IFTA carrier users.

SECTION 4339. Arkansas Code § 26-62-211(a) and (b), concerning entry slips, tax on out-of-state motor vehicle use, and penalties, are amended to read as follows:

<< AR ST § 26-62-211 >>

(a) Any unlicensed alternative fuels user, unless exempt from the tax levied herein, operating an out-of-state motor vehicle, upon entering the State of Arkansas, at the point of entry shall secure a copy of an entry slip from the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her authorized agent or employee.

(b) The entry slip shall be signed by the ~~director~~ **secretary** or his or her authorized agent or employee, and the entry slip shall also be signed by the driver of the vehicle.

SECTION 4340. Arkansas Code § 26-62-211(d), concerning entry slips, tax on out-of-state motor vehicle use, and penalties, is amended to read as follows:

<< AR ST § 26-62-211 >>

(d) The entry slip shall remain in the vehicle for the remainder of the trip over the highways of this state and shall be produced for the inspection of the ~~director~~ **secretary** or his or her authorized employee or representative, at any point within the state and shall also be produced at the port of exit to the ~~director~~ **secretary** or his or her authorized agent or employee, for determination of any alternative fuels taxes due the state.

SECTION 4341. The introductory language of Arkansas Code § 26-62-211(g)(1)(B), concerning entry slips, tax on out-of-state motor vehicle use, and penalties, is amended to read as follows:

<< AR ST § 26-62-211 >>

(B) At the time of the purchase of the fuels, the owner or operator of such vehicle shall obtain from the alternative fuels supplier from whom purchased an invoice or sales ticket, on forms approved by the ~~director~~ **secretary**, which shall contain the:

SECTION 4342. Arkansas Code § 26-62-211(g)(1)(C), concerning the content of invoices, is amended to read as follows:

<< AR ST § 26-62-211 >>

(C) The invoice or sales ticket shall remain in the vehicle for the remainder of the trip over the highways of this state. The invoice or sales ticket shall be preserved and retained by the owner or operator for a period of not less than three (3) years and shall be produced for the inspection and examination of the ~~director~~ **secretary** or his or her authorized agent or employee, at any reasonable time and place, either within or without this state, upon proper demand therefor;

SECTION 4343. Arkansas Code § 26-62-211(g)(2)(A), concerning entry slips, tax on out-of-state motor vehicle use, and penalties, is amended to read as follows:

<< AR ST § 26-62-211 >>

(2)(A) By the payment to the ~~director~~ **secretary** or to his or her agent, representative, or employee of the amount of tax which would be due upon a sufficient quantity, as determined above, of alternative fuels to propel the vehicle over the highways of this state.

SECTION 4344. The introductory language of Arkansas Code § 26-62-211(g)(2)(B), concerning entry slips, tax on out-of-state motor vehicle use, and penalties, is amended to read as follows:

<< AR ST § 26-62-211 >>

(B) At the time of payment of the tax, the ~~director~~ **secretary** or his or her employee or representative shall issue to the person paying the tax a receipt showing:

SECTION 4345. Arkansas Code § 26-62-211(g)(2)(B)(vi), concerning entry slips, tax on out-of-state motor vehicle use, and penalties, are amended to read as follows:

<< AR ST § 26-62-211 >>

(vi) Any other information which the ~~director~~ **secretary** may require, which receipt shall be signed by the ~~director~~ **secretary** or his or her agent or representative.

SECTION 4346. Arkansas Code § 26-62-211(g)(2)(C), concerning entry slips, tax on out-of-state motor vehicle use, and penalties, is amended to read as follows:

<< AR ST § 26-62-211 >>

(C) The receipt shall remain in the vehicle for the remainder of the trip over the highways of this state and thereafter shall be preserved and retained by the owner or operator for a period of not less than three (3) years and shall be produced for the inspection of the ~~director~~ **secretary** or his or her authorized agent or representative, at any reasonable time and place, either within or without this state, upon proper demand.

SECTION 4347. Arkansas Code § 26-62-212 is amended to read as follows:

<< AR ST § 26-62-212 >>

26-62-212. Power to stop, investigate, and impound vehicles — Assessment of tax.

(a) In order to enforce the provisions of this chapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her authorized representative is empowered to stop any motor vehicle which appears to be operating with alternative fuels for the purpose of examining the invoices or other documents required by this chapter, or by regulation, and for such other investigative purposes reasonably necessary to determine whether the taxes imposed by this chapter have been paid or whether the vehicle is being operated in compliance with the provisions of this chapter.

(b) If after examination or investigation it is determined by the ~~director~~ **secretary** or his or her authorized representative that the tax imposed by this chapter has not been paid with respect to the alternative fuels being used in the vehicle, the ~~director~~ **secretary** or his or her representative shall immediately assess the tax due, together with the penalty hereinafter

provided, to the owner of the vehicle and give the owner written notice of the assessment by handing it to the driver of the vehicle.

(c) The ~~director~~ **secretary** or his or her representative is empowered to impound any vehicle found to be operating in violation of this chapter by a person other than a person who has furnished the bond required of users by § 26–62–204 until such time as any tax assessed as provided herein has been paid.

SECTION 4348. Arkansas Code § 26–62–213(c)(2), concerning the unlawful activities regarding the operation of motor vehicles, is amended to read as follows:

<< AR ST § 26–62–213 >>

(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 4349. Arkansas Code § 26–62–214 is amended to read as follows:

<< AR ST § 26–62–214 >>

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 4350. Arkansas Code § 26–63–102(2), concerning Arkansas special excise taxes, is amended to read as follows:

<< AR ST § 26–63–102 >>

(2) “~~Director~~ **Secretary**” means the ~~Director~~ **Secretary** of the Department of Finance and Administration or any of his or her authorized agents;

SECTION 4351. Arkansas Code § 26–63–104(a) and (b), concerning administration, rules, and regulations to be promulgated by the Director of the Department of Finance and Administration, are amended to read as follows:

<< AR ST § 26–63–104 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall administer this chapter.

(b) The ~~director~~ **secretary** shall prescribe forms and promulgate rules for the proper enforcement of this chapter, including without limitation the manner and time the taxes levied by this chapter shall be collected, reported, and paid and how a sale will be sourced.

SECTION 4352. Arkansas Code § 26–63–105(b), concerning the cost of administration and the distribution of surplus annually, is amended to read as follows:

<< AR ST § 26–63–105 >>

(b) If any funds appropriated for the administration of this chapter remain in the possession of the ~~Director~~ **Secretary** of the Department of Finance and Administration at the end of each fiscal year that have not been actually used in the administration of this chapter, then the funds shall be remitted by the ~~director~~ **secretary** to the Treasurer of State for distribution in the same manner and for the same purposes provided for in § 26–63–106.

SECTION 4353. Arkansas Code § 26–63–106(a), concerning the disposition of taxes, interest, and penalties, is amended to read as follows:

<< AR ST § 26–63–106 >>

(a) Except as otherwise provided in this chapter, all taxes, interest, penalties, and costs received by the ~~Director~~ **Secretary** of the Department of Finance and Administration under this chapter are general revenues and shall be deposited into the State Treasury to the credit of the State Apportionment Fund.

SECTION 4354. Arkansas Code § 26–63–107 is amended to read as follows:

<< AR ST § 26–63–107 >>

26–63–107. Changes in law — Notice.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall give each special excise tax registrant under § 26–63–201 written notice of any change in the state law pertaining to the taxes levied by this chapter within thirty (30) days after the adjournment of the General Assembly.

SECTION 4355. Arkansas Code § 26–63–201 is amended to read as follows:

<< AR ST § 26–63–201 >>

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 4356. Arkansas Code § 26–63–204 is amended to read as follows:

<< AR ST § 26–63–204 >>

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 4357. Arkansas Code § 26–63–302(b)(3)(A), concerning rental vehicle tax, is amended to read as follows:

<< AR ST § 26–63–302 >>

(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 4358. Arkansas Code § 26–63–302(c)(2)(A)(i), concerning rental vehicle tax, is amended to read as follows:

<< AR ST § 26–63–302 >>

(2)(A)(i) The additional rental vehicle tax shall be remitted to the ~~director~~ **secretary**, who shall deposit seventy-five percent (75%) of the net revenues derived from the additional rental vehicle tax into the Arkansas Public Transit Trust Fund.

SECTION 4359. Arkansas Code § 26–63–304(c), concerning long-term rental vehicle tax, is amended to read as follows:

<< AR ST § 26–63–304 >>

(c) The long-term rental vehicle tax shall be remitted to the ~~Director~~ **Secretary** of the Department of Finance and Administration and shall be deposited into the State Treasury as general revenues.

SECTION 4360. Arkansas Code § 26–73–102(3), concerning the definition of “director” under the laws governing local taxes, is amended to read as follows:

<< AR ST § 26–73–102 >>

(3) “~~Director~~ **Secretary**” means the ~~Director~~ **Secretary** of the Department of Finance and Administration in the exercise of those powers, functions, and duties formerly vested in the Commissioner of Revenues of the State of Arkansas which were merged into the Department of Finance and Administration under the provisions of § 25–8–101 et seq., or any of his or her authorized agents;

SECTION 4361. Arkansas Code § 26-73-105 is amended to read as follows:

<< AR ST § 26-73-105 >>

26-73-105. Collection of taxes.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall collect the tax levied under this subchapter and shall perform all functions incident to the administration, collection, enforcement, and operation of the taxes in the manner and following the procedures that are prescribed for the corresponding state taxes.

(b) The ~~director~~ **secretary** shall deduct from all revenues collected pursuant to this subchapter up to three percent (3%) as a cost of collection.

SECTION 4362. Arkansas Code § 26-73-106 is amended to read as follows:

<< AR ST § 26-73-106 >>

26-73-106. Revenue Local Tax Revolving Fund — Revenue Local Tax Operating Fund.

(a) There are created on the books of the Treasurer of State, the Auditor of State, and the ~~Director~~ **Secretary** of the Department of Finance and Administration a Revenue Local Tax Revolving Fund and a Revenue Local Tax Operating Fund.

(b) All taxes collected by the ~~director~~ **secretary** under this subchapter shall be deposited into the State Treasury and credited to the Revenue Local Tax Revolving Fund and transmitted at least quarterly in each state fiscal year to the local government levying the tax.

SECTION 4363. Arkansas Code § 26-73-107 is amended to read as follows:

<< AR ST § 26-73-107 >>

26-73-107. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall 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 4364. Arkansas Code § 26-73-109(a)(1)(A)(ii), concerning tax information exchange agreements, is amended to read as follows:

<< AR ST § 26-73-109 >>

(ii) ~~Director~~ **Secretary** of the Department of Finance and Administration; or

SECTION 4365. Arkansas Code § 26-73-109(a)(2), concerning tax information exchange agreements, is amended to read as follows:

<< AR ST § 26-73-109 >>

(2) In all other matters concerning the release of tax information, including its release to law enforcement agencies, the local government shall be governed by state law in the same manner as is the ~~director~~ **secretary**.

SECTION 4366. Arkansas Code § 26-74-203(5), concerning the definition of “director” under the laws governing sales and use taxes for capital improvements, is repealed.

<< AR ST § 26-74-203 >>

(5) “~~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 4367. Arkansas Code § 26-74-204(c), concerning the issuance of bonds, is amended to read as follows:

<< AR ST § 26-74-204 >>

(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 county clerk of the county, shall be filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration and with the Treasurer of State.

SECTION 4368. Arkansas Code § 26-74-208(b)(3)(D)(i), concerning the form of a ballot for a sales and use tax, is amended to read as follows:

<< AR ST § 26-74-208 >>

(D)(i) To extend the sales and use tax levied under this subchapter to a new expiration date, the county shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the new expiration date that was approved by the voters after publication of the proclamation has occurred and at least ninety (90) days before the current expiration date of the sales and use tax.

SECTION 4369. Arkansas Code § 26-74-209(d)(1), concerning the conduct of elections, results, and challenges, is amended to read as follows:

<< AR ST § 26-74-209 >>

(d)(1) The county court shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the countywide tax after publication of the proclamation has occurred and ninety (90) days before the effective date of the tax.

SECTION 4370. Arkansas Code § 26-74-209(d)(2)(A)(i), concerning the conduct of elections, results, and challenges, is amended to read as follows:

<< AR ST § 26-74-209 >>

(2)(A)(i) Except as provided in subdivision (d)(2)(A)(ii) of this section, if an election challenge is not timely filed, the countywide tax shall be levied, effective on the first day of the first month of the calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers and after the expiration of the thirty-day challenge period, on the gross receipts from the sale at retail within the county of all items and services that are subject to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

SECTION 4371. Arkansas Code § 26-74-211 is amended to read as follows:

<< AR ST § 26-74-211 >>

26-74-211. Notification of results.

(a) Within ten (10) days after the certification of the votes of any election resulting in the adoption or abolition of a tax levied pursuant to this subchapter and ninety (90) days before its effective date, the county court shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the results.

(b) A rate change will be effective only on the first day of a calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers.

(c) A rate change on a purchase from a printed catalog in which the purchaser computed the tax based upon local tax rates published in the catalog will be applicable on the first day of a calendar quarter after a minimum of one hundred twenty (120) days' notice by the ~~director~~ **secretary** to the sellers.

(d) For sales and use tax purposes only, a local boundary change will become effective on the first day of a calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers.

SECTION 4372. Arkansas Code § 26-74-213(b)(1), concerning county tax rebates, is amended to read as follows:

<< AR ST § 26-74-213 >>

(b)(1) If a rebate would be due pursuant to the provisions of this subchapter as a result of the purchase of a new or used motor vehicle and if the tax on the new or used motor vehicle is collected directly from the purchaser pursuant to the provisions of § 26-52-510, then the ~~Director~~ **Secretary** of the Department of Finance and Administration shall collect only the amount of tax due less the amount to which the purchaser would be entitled under the rebate provisions of this subchapter.

SECTION 4373. Arkansas Code § 26-74-214(a)(1), concerning the disposition of county sales and use taxes, is amended to read as follows:

<< AR ST § 26-74-214 >>

(a)(1) 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 county sales and use taxes in each county and shall deposit all such revenues with the Treasurer of State.

SECTION 4374. The introductory language of Arkansas Code § 26-74-214(e)(1), concerning the disposition of county sales and use taxes, is amended to read as follows:

<< AR ST § 26-74-214 >>

(e)(1) When any tax adopted by a county pursuant to this subchapter is abolished, the ~~director~~ **secretary** shall retain in the account of that county in the Local Sales and Use Tax Trust Fund for a period of one (1) year an amount equal to five percent (5%) of the final remittance to the county and municipalities in the county at the time of termination of the collection of the tax to:

SECTION 4375. Arkansas Code § 26-74-214(e)(2), concerning the disposition of county sales and use taxes, is amended to read as follows:

<< AR ST § 26-74-214 >>

(2) After one (1) year has elapsed after the effective date of the abolition of the tax in any county, the ~~director~~ **secretary** shall transfer the balance in that county's account to the county and municipalities in the county and shall close the account.

SECTION 4376. Arkansas Code § 26-74-214(f), concerning the disposition of county sales and use taxes, is amended to read as follows:

<< AR ST § 26-74-214 >>

(f)(1) As indicated by a certified copy of an ordinance of the quorum court of the county previously filed with the ~~director~~ **secretary** and the Treasurer of State, any moneys collected that are pledged to secure lease rentals or the payment of bonds authorized by this subchapter shall not be deposited into the State Treasury but shall be deposited by the Treasurer of State into a bank or banks designated by the county, as cash funds, and transmitted to the county subject to the charges payable and retainage authorized in this section.

(2) Charges deducted shall be transmitted to the Treasurer of State, and amounts retained shall be retained by the ~~director~~ **secretary** as cash funds.

SECTION 4377. Arkansas Code § 26-74-215 is amended to read as follows:

<< AR ST § 26-74-215 >>

26-74-215. 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 administration, collection, enforcement, and operation of the taxes authorized in this subchapter.

SECTION 4378. Arkansas Code § 26-74-216 is amended to read as follows:

<< AR ST § 26-74-216 >>

26-74-216. Procedures and penalties for enforcement.

(a) The procedures and penalties used by the ~~Director~~ **Secretary** of the Department of Finance and Administration in enforcing any local tax imposed pursuant to this subchapter shall be the same as for the state gross receipts tax and

compensating tax, as set out in the Arkansas Tax Procedure Act, § 26–18–101 et seq., except as specifically set out in this subchapter.

(b)(1) When property is seized by the ~~director~~ **secretary** under the provisions of any law authorizing seizure of property of a taxpayer who is delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act of 1941, § 26–52–101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26–53–101 et seq., and when the taxpayer is also delinquent in payment of any tax imposed by this subchapter, the ~~director~~ **secretary** shall sell sufficient property to pay the delinquent taxes and penalty due to any city or county under this subchapter in addition to that required to pay any amount due to the state under the Arkansas Gross Receipts Act of 1941, § 26–52–101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26–53–101 et seq.

(2) The proceeds from such sale shall first be applied to all sums due to the state, and the remainder, if any, shall be applied to all sums due to the city or county.

SECTION 4379. Arkansas Code § 26–74–220(c), concerning the maximum tax limitation for county general sales or use taxes, is amended to read as follows:

<< AR ST § 26–74–220 >>

(c) This section applies only to a tax collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4380. Arkansas Code § 26–74–303(5), concerning the definition of “director” under the laws governing sales taxes for capital improvements, is repealed.

<< AR ST § 26–74–303 >>

(5) ~~“Director” means the Director of the Department of Finance and Administration, any successor of the director, or any authorized agent of the director;~~

SECTION 4381. Arkansas Code § 26–74–304(c), concerning the issuance of bonds by counties, is amended to read as follows:

<< AR ST § 26–74–304 >>

(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 county clerk of the county, shall be filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration and with the Treasurer of State.

SECTION 4382. Arkansas Code § 26–74–308(b)(3)(D)(i), concerning the form of a ballot for a county sales and use tax, is amended to read as follows:

<< AR ST § 26-74-308 >>

(D)(i) To extend the sales and use tax levied under this subchapter to a new expiration date, the county shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the new expiration date that was approved by the voters after publication of the proclamation has occurred and at least ninety (90) days before the current expiration date of the sales and use tax.

SECTION 4383. Arkansas Code § 26-74-309(d), concerning challenges, results, and conduct of elections, is amended to read as follows:

<< AR ST § 26-74-309 >>

(d)(1) The county court shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the countywide tax after publication of the proclamation has occurred and ninety (90) days before the effective date of the tax.

(2)(A) Except as provided in subdivision (d)(2)(B) of this section, if an election challenge is not timely filed, the countywide tax shall be levied, effective on the first day of the first month of the calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers and after the expiration of the thirty-day challenge period, on the gross receipts from the sale at retail within the county 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.

(B) The effective date of the levy of the countywide tax may be delayed under § 26-74-308(d).

SECTION 4384. Arkansas Code § 26-74-311 is amended to read as follows:

<< AR ST § 26-74-311 >>

26-74-311. Notification of results.

(a) Within ten (10) days after the certification of the votes of any election resulting in the adoption or abolition of a tax levied pursuant to this subchapter and ninety (90) days before the effective date, the county court shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the results.

(b) A rate change will become effective only on the first day of a calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers.

(c) A rate change on a purchase from a printed catalog in which the purchaser computed the tax based upon local tax rates published in the catalog will be applicable beginning on the first day of a calendar quarter after a minimum of one hundred twenty (120) days' notice by the ~~director~~ **secretary** to the sellers.

(d) For sales and use tax purposes only, a local boundary change will become effective only on the first day of a calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers.

SECTION 4385. Arkansas Code § 26-74-312 is amended to read as follows:

<< AR ST § 26-74-312 >>

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 4386. Arkansas Code § 26-74-313(a)-(c), concerning the disposition of funds, are amended to read as follows:

<< AR ST § 26-74-313 >>

(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 county sales and use taxes in each county. The ~~director~~ **secretary** shall determine the population of the unincorporated area of each of the counties and shall furnish the information to the Treasurer of State.

(b) Except as set forth in subsections (c), (e), and (f) of this section, any tax collected by the ~~director~~ **secretary** under this subchapter on behalf of any county shall be deposited with the Treasurer of State in trust and shall be kept in a separate suspense account.

(c) Any moneys collected by the ~~director~~ **secretary**, as indicated by a certified copy of an ordinance of the quorum court of the county, previously filed with the ~~director~~ **secretary** and the Treasurer of State, which 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 county, as cash funds, and transmitted to the county subject to the charges payable to the State of Arkansas set forth in subsection (d) of this section. Charges deducted shall be transmitted to the Treasurer of State.

SECTION 4387. Arkansas Code § 26-74-313(d)(1), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 26-74-313 >>

(d)(1) The Treasurer of State shall transmit to the treasurer or financial officer of each city and county its per capita share, after deducting the amount required for claims, overpayments, and bad checks, as certified by the ~~director~~ **secretary**.

SECTION 4388. Arkansas Code § 26-74-313(d)(4)-(6), concerning the disposition of funds, are amended to read as follows:

<< AR ST § 26-74-313 >>

(4) The ~~director~~ **secretary** is authorized to retain in the suspense account a balance not to exceed five percent (5%) of the amount remitted to the local governments. The ~~director~~ **secretary** is authorized to make refunds from the suspense account of any overpayments made and to redeem dishonored checks and drafts deposited to the credit of the suspense account.

(5) When any tax adopted pursuant to this subchapter is thereafter abolished, the ~~director~~ **secretary** shall retain in the suspense account for a period of one (1) year five percent (5%) of the final remittance to the local governments at the time of termination of collection of the tax to:

(A) Cover possible refunds for overpayment of the tax; and

(B) Redeem dishonored checks and drafts deposited to the credit of the suspense account.

(6) After one (1) year has elapsed after the effective date of the abolishment of the tax, the ~~director~~ **secretary** shall remit the balance of the account to the governing bodies of the cities and counties and close the account.

SECTION 4389. Arkansas Code § 26-74-314 is amended to read as follows:

<< AR ST § 26-74-314 >>

26-74-314. 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 4390. Arkansas Code § 26-74-320(c), concerning maximum tax limitation for county general sales or use taxes, is amended to read as follows:

<< AR ST § 26-74-320 >>

(c) This section applies only to taxes collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4391. Arkansas Code § 26-74-321(a), concerning the procedures and penalties for enforcement of a local tax, is amended to read as follows:

<< AR ST § 26-74-321 >>

(a) The procedures and penalties used by the ~~Director~~ **Secretary** of the Department of Finance and Administration in enforcing any local tax imposed pursuant to this subchapter shall be the same as for 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., as set out in the Arkansas Tax Procedure Act, § 26–18–101 et seq., except as specifically set out in this subchapter.

SECTION 4392. Arkansas Code § 26–74–321(b)(1), concerning the procedures and penalties for enforcement of a local tax, is amended to read as follows:

<< AR ST § 26–74–321 >>

(b)(1) When property is seized by the ~~director~~ **secretary** under the provisions of any law authorizing seizure of property of a taxpayer who is delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act of 1941, § 26–52–101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26–53–101 et seq., and when the taxpayer is also delinquent in payment of any tax imposed by this subchapter, the ~~director~~ **secretary** shall sell sufficient property to pay the delinquent taxes and penalty due to any city or county under this subchapter in addition to that required to pay any amount due to the state under the Arkansas Gross Receipts Act of 1941, § 26–52–101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26–53–101 et seq.

SECTION 4393. Arkansas Code § 26–74–401(2), concerning the definition of “director” under the laws governing sales and use tax for counties without existing tax, is repealed.

<< AR ST § 26–74–401 >>

(2) “Director” means the ~~Director of the Department of Finance and Administration, or any successor thereof, or any authorized agent thereof.~~

SECTION 4394. Arkansas Code § 26–74–404(d)(1), concerning election challenges and results, is amended to read as follows:

<< AR ST § 26–74–404 >>

(d)(1) The county court shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the tax after publication of the proclamation has occurred and ninety (90) days before the effective date of the tax.

SECTION 4395. Arkansas Code § 26–74–404(d)(2)(A), concerning election challenges and results, is amended to read as follows:

<< AR ST § 26–74–404 >>

(2)(A) If no election challenge is timely filed, there shall be levied, effective on the first day of the first month of the calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers and after the expiration of the thirty-day challenge period, a one-half percent (0.5%) tax on the gross receipts from the sale of all items 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.

SECTION 4396. Arkansas Code § 26–74–406 is amended to read as follows:

<< AR ST § 26–74–406 >>

26–74–406. Notification of results.

(a) Within ten (10) days after the certification of the votes of any election resulting in the adoption of a tax levied pursuant to this subchapter and ninety (90) days before the effective date of the rate change, the county court shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the results.

(b) A rate change will become effective only on the first day of a calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers.

(c) A rate change on a purchase from a printed catalog in which the purchaser computed the tax based upon local tax rates published in the catalog will be applicable beginning on the first day of a calendar quarter after a minimum of one hundred twenty (120) days' notice by the ~~director~~ **secretary** to the sellers.

(d) For sales and use tax purposes only, a local boundary change will become effective only on the first day of a calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers.

SECTION 4397. Arkansas Code § 26-74-408(b)(1), concerning county tax rebates, is amended to read as follows:

<< AR ST § 26-74-408 >>

(b)(1) When a rebate would be due pursuant to the provisions of this subchapter as a result of the purchase of a new or used motor vehicle and when the tax on the new or used motor vehicle is collected directly from the purchaser pursuant to the provisions of § 26-52-510, then the ~~Director~~ **Secretary** of the Department of Finance and Administration shall collect only the amount of tax due less the amount to which the purchaser would be entitled under the rebate provisions of this subchapter.

SECTION 4398. Arkansas Code § 26-74-409(a)(1), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 26-74-409 >>

(a)(1) 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 all other subchapters authorizing a county sales and use tax in each county and shall deposit all such revenues with the Treasurer of State.

SECTION 4399. The introductory language of Arkansas Code § 26-74-409(e), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 26-74-409 >>

(e) When any tax adopted by a county pursuant to this subchapter ceases, the ~~director~~ **secretary** shall retain in the account of that county in the Local Sales and Use Tax Trust Fund for a period of one (1) year an amount equal to five percent (5%) of the final remittance to the county and municipalities therein at the time of termination of the collection of the tax to:

SECTION 4400. Arkansas Code § 26-74-409(f), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 26-74-409 >>

(f) After one (1) year has elapsed after the tax ceases in any county, the ~~director~~ **secretary** shall transfer the balance in that county's account to the county and shall close the account.

SECTION 4401. Arkansas Code § 26–74–410 is amended to read as follows:

<< AR ST § 26–74–410 >>

26–74–410. 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 administration, collection, enforcement, and operation of the taxes authorized in this subchapter.

SECTION 4402. Arkansas Code § 26–74–411(a), concerning the procedures and penalties for enforcement of local taxes, is amended to read as follows:

<< AR ST § 26–74–411 >>

(a) The procedures and penalties used by the ~~Director~~ **Secretary** of the Department of Finance and Administration in enforcing any local tax imposed pursuant to this subchapter shall be the same as for the state gross receipts tax and compensating tax, as set out in the Arkansas Tax Procedure Act, § 26–18–101 et seq., except as specifically set out in this subchapter.

SECTION 4403. Arkansas Code § 26–74–411(b)(1), concerning the procedures and penalties for enforcement of local taxes, is amended to read as follows:

<< AR ST § 26–74–411 >>

(b)(1) When property is seized by the ~~director~~ **secretary** under the provisions of any law authorizing seizure of property of a taxpayer who is delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act of 1941, § 26–52–101 et seq., or Arkansas Compensating Tax Act of 1949, § 26–53–101 et seq., and when the taxpayer is also delinquent in payment of any tax imposed by this subchapter, the ~~director~~ **secretary** shall sell sufficient property to pay the delinquent taxes and penalty due to any county under this subchapter in addition to that required to pay any amount due to the state under the Arkansas Gross Receipts Act of 1941, § 26–52–101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26–53–101 et seq.

SECTION 4404. Arkansas Code § 26–74–412(a)(2), concerning the maximum tax limitation, is amended to read as follows:

<< AR ST § 26–74–412 >>

(2) A vendor collecting, reporting, and remitting the county sales or use taxes shall show county sales taxes as a separate entry on the tax report form filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4405. Arkansas Code § 26–74–601(2), concerning the definition of “director” under the laws governing sales and use taxes for the capital improvements of a community college, is repealed.

<< AR ST § 26–74–601 >>

(2) “~~Director~~” means the ~~Director of the Department of Finance and Administration, any successor of the director, or any authorized agent of the director;~~

SECTION 4406. Arkansas Code § 26-74-605(e)(1)(A), concerning the conduct of election and results, and challenges, is amended to read as follows:

<< AR ST § 26-74-605 >>

(e)(1)(A) If a challenge to an election called under § 26-74-603(b) is not timely filed, there shall be levied effective on the first day of the first month of the calendar quarter after a minimum of sixty (60) days' notice by the ~~Director~~ **Secretary** of the Department of Finance and Administration to sellers and subsequent to the expiration of the thirty-day challenge period a countywide tax on the gross receipts from the sale at retail within the eligible county of all items that are subject to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

SECTION 4407. Arkansas Code § 26-74-605(h)(1), concerning the conduct of election and results, and challenges, is amended to read as follows:

<< AR ST § 26-74-605 >>

(h)(1) To extend the period for the levy of a tax under § 26-74-603(c), after the publication of the proclamation has occurred and at least ninety (90) days before the current period for the levy of the tax is set to expire, the county shall notify the ~~director~~ **secretary** of the new period for the levy of the tax that was approved by the voters.

SECTION 4408. Arkansas Code § 26-74-607 is amended to read as follows:

<< AR ST § 26-74-607 >>

26-74-607. Notification of results.

Within ten (10) days after the certification of the votes of any election resulting in the adoption or abolition of a tax levied pursuant to this subchapter and ninety (90) days before the effective date of the tax, the county judge shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the results.

SECTION 4409. Arkansas Code § 26-74-609(a)(1), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 26-74-609 >>

(a)(1) 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 all other subchapters authorizing a county sales and use tax in each eligible county and shall deposit all such revenues with the Treasurer of State.

SECTION 4410. The introductory language of Arkansas Code § 26-74-609(e), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 26-74-609 >>

(e) When any tax adopted by an eligible county pursuant to this subchapter ceases, the ~~director~~ **secretary** shall retain in the account of that eligible county in the Local Sales and Use Tax Trust Fund for a period of one (1) year an amount equal to five percent (5%) of the final remittance to the eligible county at the time of termination of the collection of the tax to:

SECTION 4411. The introductory language of Arkansas Code § 26-74-609(f), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 26-74-609 >>

(f) After one (1) year has elapsed after the tax ceases in any eligible county, the ~~director~~ **secretary** shall transfer the balance in that eligible county's account to the eligible county and shall close the account.

SECTION 4412. Arkansas Code § 26-74-610 is amended to read as follows:

<< AR ST § 26-74-610 >>

26-74-610. 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 administration, collection, enforcement, and operation of the taxes authorized in this subchapter.

SECTION 4413. Arkansas Code § 26-74-611 is amended to read as follows:

<< AR ST § 26-74-611 >>

26-74-611. Procedures and penalties for enforcement.

(a) The procedures and penalties used by the ~~Director~~ **Secretary** of the Department of Finance and Administration in enforcing any tax imposed pursuant to this subchapter shall be the same as for the state gross receipts tax and the state compensating tax, as set out in the Arkansas Tax Procedure Act, § 26-18-101 et seq., except as specifically set out in this subchapter.

(b)(1) When property is seized by the ~~director~~ **secretary** under the provisions of any law authorizing seizure of property of a taxpayer who is delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and when the taxpayer is also delinquent in payment of any tax imposed by this subchapter, the ~~director~~ **secretary** shall sell sufficient property to pay the delinquent taxes and penalty due to any eligible county under this subchapter in addition to that required to pay any amount due to the state under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

(2) The proceeds from the sale shall first be applied to all sums due to the state, and the remainder, if any, shall be applied to all sums due to the eligible county.

SECTION 4414. Arkansas Code § 26-74-612(b), concerning maximum tax limitations, is amended to read as follows:

<< AR ST § 26-74-612 >>

(b) A vendor collecting, reporting, and remitting the tax shall show the tax as a separate entry on the tax report form filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4415. Arkansas Code § 26-75-203(6), concerning the definition of “director” under the sales and use tax for capital improvements, is repealed.

<< AR ST § 26-75-203 >>

(6) ~~“Director” means the Director of the Department of Finance and Administration, any successor of the director, or any authorized agent of the director;~~

SECTION 4416. Arkansas Code § 26-75-204(c), concerning the issuance of bonds, is amended to read as follows:

<< AR ST § 26-75-204 >>

(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 4417. Arkansas Code § 26-75-208(b)(3)(D)(i), concerning the requirement for a special election, is amended to read as follows:

<< AR ST § 26-75-208 >>

(D)(i) To extend the sales and use tax levied under this subchapter to a new expiration date, the city shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the new expiration date that was approved by the voters after publication of the proclamation has occurred and at least ninety (90) days before the current expiration date of the sales and use tax.

SECTION 4418. The introductory language of Arkansas Code § 26-75-209, concerning the effective date of an ordinance, is amended to read as follows:

<< AR ST § 26-75-209 >>

In order to provide time for the preparations for election set forth in this subchapter and to provide for the accomplishment of the administrative duties of the ~~Director~~ **Secretary** of the Department of Finance and Administration, the following effective dates are applicable with reference to any such ordinance levying such tax:

SECTION 4419. Arkansas Code § 26-75-209(1)(D)(i) and (ii), concerning the effective date of an ordinance, are amended to read as follows:

<< AR ST § 26-75-209 >>

(D)(i) The mayor of the city shall notify the ~~director~~ **secretary** of the rate change after publication of the proclamation has occurred and ninety (90) days before the effective date of the tax.

(ii) If an election challenge is not filed within the thirty-day challenge period, the ordinance or petition described in § 26–75–207 shall become effective on the first day of the first month of the calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers and after the expiration of the full thirty-day period of challenge.

SECTION 4420. Arkansas Code § 26–75–209(1)(E), concerning the effective date of an ordinance, is amended to read as follows:

<< AR ST § 26–75–209 >>

(E) The rate change shall become applicable on the first day of a quarter after one hundred twenty (120) days' notice by the ~~director~~ **secretary** to sellers on a purchase from a printed catalog in which the purchaser computed the tax based upon local tax rates published in the catalog; and

SECTION 4421. Arkansas Code § 26–75–210(d)(1), concerning the abolishment of tax, is amended to read as follows:

<< AR ST § 26–75–210 >>

(d)(1) The effective date of any affirmative vote by the governing body of the city to abolish the tax under subsection (a) of this section shall be on the first day of the calendar quarter after the expiration of ninety (90) days from the date a written statement signed by the chief executive officer of the city abolishing the tax is filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration certifying that the governing body of the city has adopted an ordinance abolishing the tax.

SECTION 4422. Arkansas Code § 26–75–211 is amended to read as follows:

<< AR ST § 26–75–211 >>

26–75–211. Notification required.

(a) As soon as is feasible, and no later than ten (10) days following each of the events set forth in the ordinance with reference to the procedure for the adoption or abolition of a tax and the effective dates of such an action, the city clerk of the city shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of such event.

(b)(1) If any city in which a local sales and use tax has been imposed in the manner provided for in this subchapter shall thereafter change or alter its boundaries, the city clerk of the city shall forward to the ~~director~~ **secretary** at least ninety (90) days before the effective date a certified copy of the ordinance adding or detaching territory from the city, which shall be accompanied by a map clearly showing the territory added or detached.

(2) After receipt of the ordinance and map, the tax imposed under this subchapter shall be effective in the added territory or abolished in the detached territory on the first day of the first month of the calendar quarter following the expiration of sixty (60) days' notice by the ~~director~~ **secretary** to sellers.

SECTION 4423. Arkansas Code § 26–75–212(b), concerning the collection of local sales and use taxes, is amended to read as follows:

<< AR ST § 26-75-212 >>

(b) The tax levied in this subchapter on new and used motor vehicles shall be collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration directly from the purchaser in the manner prescribed in § 26-52-510.

SECTION 4424. Arkansas Code § 26-75-212(c)(4), concerning the collection of local sales and use taxes, is amended to read as follows:

<< AR ST § 26-75-212 >>

(4) This subsection only applies to a tax collected by the ~~director~~ **secretary**.

SECTION 4425. Arkansas Code § 26-75-214(a) and (b), concerning the administration and collection of taxes, are amended to read as follows:

<< AR ST § 26-75-214 >>

(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 and compensating tax, the ~~director~~ **secretary** shall collect an additional tax under the authority of this subchapter on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, distribution, or other consumption of all taxable items and services 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.

SECTION 4426. Arkansas Code § 26-75-214(c)(1), concerning the administration and collection of taxes, is amended to read as follows:

<< AR ST § 26-75-214 >>

(c)(1) The tax imposed under this subchapter and the tax imposed under the gross receipts tax and compensating tax 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.

SECTION 4427. Arkansas Code § 26-75-214(c)(5), concerning the administration and collection of taxes, is amended to read as follows:

<< AR ST § 26-75-214 >>

(5) This subsection only applies to a tax collected by the ~~director~~ **secretary**.

SECTION 4428. Arkansas Code § 26-75-214(d), concerning the administration and collection of taxes, is amended to read as follows:

<< AR ST § 26-75-214 >>

(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 the proposition as provided in this subchapter.

SECTION 4429. Arkansas Code § 26-75-217(b)(2), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 26-75-217 >>

(2) The Treasurer of State is authorized to make refunds from the suspense account of any city for overpayments made to such accounts, after such refunds have been approved by the ~~Director~~ **Secretary** of the Department of Finance and Administration, and to redeem dishonored checks and drafts deposited to the credit of the suspense account of such cities.

SECTION 4430. Arkansas Code § 26-75-217(d), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 26-75-217 >>

(d) Any moneys collected 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 lease rentals or the payment of 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 and retainage authorized in this section. Charges deducted shall be transmitted to the Treasurer of State, and amounts retained shall be retained by the Treasurer of State as cash funds.

SECTION 4431. Arkansas Code § 26-75-218 is amended to read as follows:

<< AR ST § 26-75-218 >>

26-75-218. 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 4432. Arkansas Code § 26-75-219(a), concerning the procedures and penalties for enforcement of a local tax, is amended to read as follows:

<< AR ST § 26-75-219 >>

(a) The procedures and penalties used by the ~~Director~~ **Secretary** of the Department of Finance and Administration in enforcing any local tax imposed pursuant to this subchapter shall be the same as for the state gross receipts tax and compensating tax, except as specifically set out in this subchapter.

SECTION 4433. Arkansas Code § 26-75-219(b)(1), concerning the procedures and penalties for enforcement of a local tax, is amended to read as follows:

<< AR ST § 26-75-219 >>

(b)(1) When property is seized by the ~~director~~ **secretary** under the provisions of any law authorizing seizure of property of a taxpayer who is delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act of 1941, § 26-

52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and when such taxpayer is also delinquent in payment of any tax imposed by this subchapter, the ~~director~~ **secretary** shall sell sufficient property to pay the delinquent taxes and penalty due to any city under this subchapter in addition to that required to pay any amount due to the state under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

SECTION 4434. Arkansas Code § 26-75-222(c), concerning the maximum tax limitation, is amended to read as follows:

<< AR ST § 26-75-222 >>

(c) This section only applies to a tax collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4435. Arkansas Code § 26-75-303(6), concerning the definition of “director” under the laws regarding sales taxes for capital improvements, is repealed.

<< AR ST § 26-75-303 >>

~~(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 4436. Arkansas Code § 26-75-304(c), concerning the issuance of bonds for capital improvements of a public nature, is amended to read as follows:

<< AR ST § 26-75-304 >>

(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 4437. 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:

<< AR ST § 26-75-308 >>

(D)(i) To extend the sales and use tax levied under this subchapter to a new expiration date, the city shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the new expiration date that was approved by the voters after publication of the proclamation has occurred and at least ninety (90) days before the current expiration date of the sales and use tax.

SECTION 4438. The introductory language of Arkansas Code § 26-75-309, concerning the effective date of an ordinance, is amended to read as follows:

<< AR ST § 26-75-309 >>

In order to provide time for the preparations for election set forth in this subchapter and to provide for the accomplishment of the administrative duties of the ~~Director~~ **Secretary** of the Department of Finance and Administration, the following effective dates are applicable with reference to any such ordinance levying such tax:

SECTION 4439. Arkansas Code § 26-75-309(1)(D)(i) and (ii), concerning the effective date of an ordinance, are amended to read as follows:

<< AR ST § 26-75-309 >>

(D)(i) The mayor of the city shall notify the ~~director~~ **secretary** after publication of the proclamation has occurred and ninety (90) days before the effective date of the tax.

(ii) If an election challenge is not filed within the thirty-day challenge period, the ordinance or petition described in § 26-75-307 shall become effective on the first day of the first month of the calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers and after the expiration of the full thirty-day period of challenge.

SECTION 4440. Arkansas Code § 26-75-309(1)(E), concerning the effective date of an ordinance, is amended to read as follows:

<< AR ST § 26-75-309 >>

(E) The rate change shall become applicable on the first day of a quarter after one hundred twenty (120) days' notice by the ~~director~~ **secretary** to sellers on a purchase from a printed catalog in which the purchaser computed the tax based upon local tax rates published in the catalog; and

SECTION 4441. Arkansas Code § 26-75-310(g)(1), concerning the abolishment of a local sales and use tax, is amended to read as follows:

<< AR ST § 26-75-310 >>

(g)(1) The effective date of any affirmative vote by the governing body of the city to abolish the tax under subsection (b) of this section shall be on the first day of the calendar quarter after the expiration of ninety (90) days from the date a written statement signed by the chief executive officer of the city abolishing the tax is filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration certifying that the governing body of the city has adopted an ordinance abolishing the tax.

SECTION 4442. Arkansas Code § 26-75-311 is amended to read as follows:

<< AR ST § 26-75-311 >>

26-75-311. Notification required.

(a)(1) As soon as is practicable, and no later than ten (10) days following each of the events set forth in the ordinance with reference to the procedure for the adoption or abolition of such tax and the effective dates of such action, the city clerk of the city shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of such event.

(2) Accompanying the first of any such notices, the city clerk shall send to the ~~director~~ **secretary** a map of the city clearly showing the boundaries of the city.

(b)(1) If any such city in which a local sales and use tax has been imposed in the manner provided for in this subchapter shall thereafter change or alter its boundaries, the city clerk of the city shall forward to the ~~director~~ **secretary** at least ninety (90) days before the effective date a certified copy of the ordinance adding or detaching territory from the city, which shall be accompanied by a map clearly showing the territory added or detached.

(2) After receipt of the ordinance and the map, the tax imposed under this subchapter shall be effective in the added territory or abolished in the detached territory on the first day of the first month of the calendar quarter following the expiration of thirty (30) days from the date that the annexation or detachment becomes effective or after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers, whichever expires last.

SECTION 4443. Arkansas Code § 26-75-312(d)(3), concerning the collection of a local sales and use tax, is amended to read as follows:

<< AR ST § 26-75-312 >>

(3) This subsection applies only to taxes collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4444. Arkansas Code § 26-75-313 is amended to read as follows:

<< AR ST § 26-75-313 >>

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 4445. Arkansas Code § 26-75-314 is amended to read as follows:

<< AR ST § 26-75-314 >>

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 4446. Arkansas Code § 26-75-316(c) and (d), concerning an excise tax on storage, use, or other consumption, are amended to read as follows:

<< AR ST § 26-75-316 >>

(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 the proposition as provided in this subchapter.

SECTION 4447. Arkansas Code § 26-75-319(c), concerning maximum tax limitations, is amended to read as follows:

<< AR ST § 26-75-319 >>

(c) This section only applies to a tax collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4448. Arkansas Code § 26-75-320 is amended to read as follows:

<< AR ST § 26-75-320 >>

26-75-320. Procedures and penalties for enforcement.

(a) The procedures and penalties used by the ~~Director~~ **Secretary** of the Department of Finance and Administration in enforcing any local tax imposed pursuant to this subchapter shall be the same as for the gross receipts tax and compensating tax, as set out in the Arkansas Tax Procedure Act, § 26-18-101 et seq., except as specifically set out in this subchapter.

(b)(1) When property is seized by the ~~director~~ **secretary** under the provisions of any law authorizing seizure of property of a taxpayer who is delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and when the taxpayer is also delinquent in payment of any tax imposed by this subchapter, the ~~director~~ **secretary** shall sell sufficient property to pay the delinquent taxes and penalty due to any city under this subchapter in addition to that required to pay any amount due to the state under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

(2) The proceeds from the sale shall first be applied to all sums due to the state, and the remainder, if any, shall be applied to all sums due to the city.

SECTION 4449. Arkansas Code § 26-75-404(d)(3)(B)(i), concerning election requirements and procedures, is amended to read as follows:

<< AR ST § 26-75-404 >>

(B)(i)(a) The mayor of the city or town shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the rate change after publication of the proclamation has occurred and ninety (90) days before the effective date of the tax.

(b) If no election challenge is filed within the thirty-day challenge period, the ordinance shall become effective on the first day of the first month of the calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers and after the expiration of the thirty-day period for challenge of the results of the election.

(c) In the case of a purchase made from a printed catalog in which the purchaser computed the tax based upon local tax rates published in the catalog, the applicable date will be the first day of the quarter after a minimum of one hundred twenty (120) days' notice by the ~~director~~ **secretary** to sellers.

SECTION 4450. Arkansas Code § 26-75-404(e), concerning election requirements and procedures, is amended to read as follows:

<< AR ST § 26-75-404 >>

(e)(1) If a majority of electors voting on the issue vote "FOR" the levy of the tax, a copy of the mayor's proclamation of the results of the election shall be transmitted to the ~~director~~ **secretary** within ten (10) days after the election.

(2)(A) At the time of transmitting the proclamation, the clerk shall also send to the ~~director~~ **secretary** a map of the city or town clearly showing the boundaries of the city or town.

(B)(i) If any such city or town shall thereafter change or alter its boundaries, the city or town clerk shall forward to the ~~director~~ **secretary** ninety (90) days before the effective date of the boundary changes a certified copy of the ordinance adding or detaching territory from the city or town, and the ordinance shall be accompanied by a map clearly showing the territory added or detached.

(ii) After receipt of the ordinance and map, the tax imposed under this subchapter shall be effective in the added territory or abolished in the detached territory on the first day of the first month of the calendar quarter following the expiration of thirty (30) days from the date that the annexation or detachment becomes effective or after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers, whichever expires last.

SECTION 4451. Arkansas Code § 26-75-406(b)(2), concerning the manner of collection of a local sales and use tax, is amended to read as follows:

<< AR ST § 26-75-406 >>

(2) The tax levied in this section on motor vehicles shall be collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration directly from the purchaser in the same manner as the state gross receipts tax.

SECTION 4452. Arkansas Code § 26-75-406(c)(4), concerning the manner of collection of a local sales and use tax, is amended to read as follows:

<< AR ST § 26-75-406 >>

(4) This provision applies only to taxes collected by the ~~director~~ **secretary**.

SECTION 4453. Arkansas Code § 26-75-407(a), concerning the disposition of taxes, is amended to read as follows:

<< AR ST § 26-75-407 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall deposit all local sales and use taxes collected under this subchapter with the Treasurer of State.

SECTION 4454. Arkansas Code § 26-75-409 is amended to read as follows:

<< AR ST § 26-75-409 >>

26-75-409. Administration, etc.

(a)(1) On and after the effective date of any tax imposed pursuant to 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.

(2) The ~~director~~ **secretary** shall collect taxes levied pursuant to this subchapter at the same time and in the same manner as the ~~director~~ **secretary** collects the state gross receipts tax and the state compensating tax.

(b) When notified that any tax levied under this subchapter has expired or has been abolished, the ~~director~~ **secretary** shall cease to collect the tax as provided in this subchapter.

SECTION 4455. Arkansas Code § 26-75-410 is amended to read as follows:

<< AR ST § 26-75-410 >>

26-75-410. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall adopt appropriate 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 4456. Arkansas Code § 26-75-502(b), concerning the authority to levy a tax, is amended to read as follows:

<< AR ST § 26-75-502 >>

(b) Rules and regulations promulgated by the ~~Director~~ **Secretary** of the Department of Finance and Administration for the State of Arkansas in connection with the collection and administration of the state gross receipts tax shall be equally applicable with respect to any tax levied under this subchapter.

SECTION 4457. Arkansas Code § 26-75-503(d)(2) and (3), concerning election requirements of a city of the first class or second class, are amended to read as follows:

<< AR ST § 26-75-503 >>

(2) However, no such tax shall be collected under any such ordinance until the first day of a calendar quarter after a minimum of sixty (60) days' notice by the ~~Director~~ **Secretary** of the Department of Finance and Administration to sellers.

(3) For a purchase made from a printed catalog in which the purchaser computed the tax based upon local tax rates published in the catalog, the tax shall be collected on the first day of the quarter after a minimum of one hundred twenty (120) days' notice by the ~~director~~ **secretary** to sellers.

SECTION 4458. Arkansas Code § 26-75-504 is amended to read as follows:

<< AR ST § 26-75-504 >>

26-75-504. Certification of tax.

When the levy of the tax authorized in this subchapter has been approved in a city of the first class or city of the second class as provided in this subchapter, the governing body of the city shall certify to the ~~Director~~ **Secretary** of the Department of Finance and Administration that such tax has become operative and shall furnish to the ~~director~~ **secretary** the rate of the tax, including any limitations thereon, and the date on which it shall become operative.

SECTION 4459. Arkansas Code § 26-75-505 is amended to read as follows:

<< AR ST § 26-75-505 >>

26-75-505. Collection of tax.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall collect the tax levied under this subchapter concurrently with and in the same manner as taxes collected under 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.

(b) This additional tax shall be collected by the ~~director~~ **secretary** for the benefit of the city and shall be deposited into the Local Sales and Use Tax Trust Fund for distribution back to the city.

SECTION 4460. Arkansas Code § 26-75-506(a), concerning the disposition of revenues, is amended to read as follows:

<< AR ST § 26-75-506 >>

(a) All revenues collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration pursuant to the provisions of this subchapter, less three percent (3%) thereof which shall be deducted as a cost of collection and deposited into the State Treasury to the credit of the Constitutional Officers Fund and the State Central Services Fund, shall be remitted by the ~~director~~ **secretary** to the levying city at the same time the ~~director~~ **secretary** remits sales tax revenues to the State Treasury.

SECTION 4461. Arkansas Code § 26-81-106(a)(2), concerning election results, election challenge, and effective date of a tax, is amended to read as follows:

<< AR ST § 26-81-106 >>

(2) The county judge shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the results after publication of the proclamation has occurred and ninety (90) days before the effective date of the tax.

SECTION 4462. Arkansas Code § 26–81–106(a)(3)(A), concerning election results, election challenge, and effective date of a tax, is amended to read as follows:

<< AR ST § 26–81–106 >>

(3)(A) If no election challenge is timely filed, there shall be levied, effective on the first day of the first month of the calendar quarter after the expiration of the thirty-day challenge period and after a minimum of sixty (60) days' notice by the ~~director~~ **secretary** to sellers, a one percent (1%) tax on the gross receipts from the sale at retail within the county on all items that are subject to the Arkansas Gross Receipts Act of 1941, § 26–52–101 et seq., and an excise tax on the storage, use, or consumption within the county of tangible personal property and services purchased, leased, or rented from any retailer outside the state for storage, use, or other consumption in the county, at a rate of one percent (1%) of the sale price of the property or services or, in the case of leases or rentals, of the lease or rental price, the rate of the use tax to correspond to the rate of the sales tax portion of the tax.

SECTION 4463. Arkansas Code § 26–81–107(a), concerning the deposit with the Treasurer of State and the record of collections, is amended to read as follows:

<< AR ST § 26–81–107 >>

(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 chapter and other subchapters authorizing county sales and use tax in each county and shall deposit all such revenues with the Treasurer of State.

SECTION 4464. Arkansas Code § 26–81–108(c), concerning the distribution of a tax levied, is amended to read as follows:

<< AR ST § 26–81–108 >>

(c)(1) When any tax adopted by a county pursuant to this chapter is terminated, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall retain in the account of that county in the Local Sales and Use Tax Trust Fund for a period of one (1) year an amount equal to five percent (5%) of the final remittance to the county and municipalities therein at the time of termination of the collection of the tax to:

- (A) Cover possible rebates by the county;
- (B) Cover refunds for overpayment of taxes; and
- (C) Redeem dishonored checks and drafts deposited to the credit of the Local Sales and Use Tax Trust Fund.

(2) After one (1) year has elapsed after the effective date of the abolition of the tax in any county, the ~~director~~ **secretary** shall transfer the balance in that county's account to the county and municipalities in the county and shall close the account.

SECTION 4465. Arkansas Code § 26–81–109 is amended to read as follows:

<< AR ST § 26–81–109 >>

26–81–109. 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 chapter to implement the administration, collection, enforcement, and operation of the taxes authorized in this chapter.

SECTION 4466. Arkansas Code § 26–81–110(a)(3), concerning combined tax reports, is amended to read as follows:

<< AR ST § 26–81–110 >>

(3) This subsection only applies to a tax collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4467. Arkansas Code § 26–82–103(b), concerning the authority to levy a local sales and use tax, is amended to read as follows:

<< AR ST § 26–82–103 >>

(b) A certified copy of the ordinance authorizing the levy of a local sales and use tax shall be provided to the ~~Director~~ **Secretary** of the Department of Finance and Administration as soon as practicable after the adoption of the ordinance.

SECTION 4468. Arkansas Code § 26–82–103(d)(2)(A), concerning the authority to levy a local sales and use tax, is amended to read as follows:

<< AR ST § 26–82–103 >>

(2)(A) Except as otherwise provided in § 26–82–106, to provide for the accomplishment of the administrative duties of the ~~director~~ **secretary**, the local sales and use tax shall terminate on the first day of the calendar quarter after the expiration of ninety (90) days from the date there is filed with the ~~director~~ **secretary** a written statement signed by the chief executive officer of the city or county levying the local sales and use tax and identifying the local sales and use tax to be terminated.

SECTION 4469. The introductory language of Arkansas Code § 26–82–104(b)(3)(D)(i), concerning the election to adopt an ordinance levying a local sales and use tax, is amended to read as follows:

<< AR ST § 26–82–104 >>

(D)(i) To extend the local sales and use tax levied under this chapter to a new expiration date, the levying entity shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the new expiration date approved by the voters:

SECTION 4470. The introductory language of Arkansas Code § 26–82–105, concerning requirements and effective dates, is amended to read as follows:

<< AR ST § 26–82–105 >>

To provide time to prepare for an election required under this chapter and to provide time for the ~~Director~~ **Secretary** of the Department of Finance and Administration to accomplish his or her duties, the following requirements apply to an ordinance levying a local sales and use tax under this chapter:

SECTION 4471. The introductory language of Arkansas Code § 26-82-105(3)(A), concerning requirements and effective dates, is amended to read as follows:

<< AR ST § 26-82-105 >>

(3)(A) As directed by the governing body of the levying entity and after the written plan has been approved by the governing body of the levying entity under subdivision (2) of this section, the mayor or county judge of the levying entity shall notify the ~~director~~ **secretary** of the rate change:

SECTION 4472. Arkansas Code § 26-82-105(3)(C), concerning requirements and effective dates, is amended to read as follows:

<< AR ST § 26-82-105 >>

(C) The rate change on a purchase from a printed catalog in which the purchaser computed the tax based upon local tax rates published in the catalog is effective on the first day of a calendar quarter after a minimum of one hundred twenty (120) days' notice by the ~~director~~ **secretary** to the sellers; and

SECTION 4473. Arkansas Code § 26-82-106(d)(1), concerning the abolition of a tax, is amended to read as follows:

<< AR ST § 26-82-106 >>

(d)(1) The effective date of an affirmative vote by the governing body of the levying entity to abolish the local sales and use tax under subsection (a) of this section shall be on the first day of the calendar quarter after the expiration of ninety (90) days from the date a written statement signed by the mayor or county judge of the levying entity abolishing the tax is filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration certifying that the governing body of the levying entity has adopted an ordinance abolishing the local sales and use tax.

SECTION 4474. Arkansas Code § 26-82-107 is amended to read as follows:

<< AR ST § 26-82-107 >>

26-82-107. Notice of adoption or abolition of tax.

No later than ten (10) days following each of the events stated in the ordinance with reference to the procedure for the adoption or abolition of the local sales and use tax and the effective dates of the action under this chapter, the clerk of the levying entity shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration of the event.

SECTION 4475. Arkansas Code § 26-82-108(b), concerning the collection of a local sales and use tax, is amended to read as follows:

<< AR ST § 26-82-108 >>

(b) The local sales and use tax levied under this chapter on new and used motor vehicles shall be collected by the ~~Director~~ **Secretary** of the Department of Finance and Administration directly from the purchaser under § 26-52-510.

SECTION 4476. Arkansas Code § 26–82–109(a) and (b), concerning the administration of a local sales and use tax, are amended to read as follows:

<< AR ST § 26–82–109 >>

(a) On and after the effective date of a local sales and use tax imposed under this chapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall perform all functions incidental to the administration, collection, enforcement, and operation of the local sales and use tax.

(b) In addition to the state gross receipts tax and compensating tax, the ~~director~~ **secretary** shall collect the additional tax under this chapter on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, distribution, or other consumption of all taxable items and services 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.

SECTION 4477. Arkansas Code § 26–82–109(c)(1), concerning the administration of a local sales and use tax, is amended to read as follows:

<< AR ST § 26–82–109 >>

(c)(1) The local sales and use tax imposed under this chapter and the tax imposed under the gross receipts tax and compensating tax shall be collected together and reported upon the forms and under the administrative rules that are prescribed by the ~~director~~ **secretary** and that are not inconsistent with this chapter.

SECTION 4478. Arkansas Code § 26–82–109(c)(5), concerning the administration of a local sales and use tax, is amended to read as follows:

<< AR ST § 26–82–109 >>

(5) This subsection applies only to a tax collected by the ~~director~~ **secretary**.

SECTION 4479. Arkansas Code § 26–82–109(d), concerning the administration of a local sales and use tax, is amended to read as follows:

<< AR ST § 26–82–109 >>

(d) On and after the effective date of an ordinance to abolish a local sales and use tax in any levying entity, the ~~director~~ **secretary** shall comply with the ordinance under this chapter.

SECTION 4480. Arkansas Code § 26–82–111(b)(2)(A), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 26–82–111 >>

(A) For overpayments made to the account after the refunds have been approved by the ~~Director~~ **Secretary** of the Department of Finance and Administration; and

SECTION 4481. Arkansas Code § 26-82-112(a), concerning the penalties and enforcement used by the Director of the Department of Finance and Administration in enforcing a local sales and use tax, is amended to read as follows:

<< AR ST § 26-82-112 >>

(a) The procedures and penalties used by the ~~Director~~ **Secretary** of the Department of Finance and Administration in enforcing a local sales and use tax imposed under this chapter shall be the same as for the state gross receipts tax and compensating tax unless otherwise provided in this chapter.

SECTION 4482. Arkansas Code § 26-82-112(b)(1), concerning the penalties and enforcement used by the Director of the Department of Finance and Administration in enforcing a local sales and use tax, is amended to read as follows:

<< AR ST § 26-82-112 >>

(b)(1) When property is seized by the ~~director~~ **secretary** under any statute authorizing seizure of property of a taxpayer who is delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and when the taxpayer is also delinquent in payment of any local sales and use tax imposed under this chapter, the ~~director~~ **secretary** shall sell sufficient property to pay the delinquent local sales and use taxes and penalties due to any levying entity under this chapter in addition to the amount required to pay any taxes due to the state under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

SECTION 4483. Arkansas Code § 26-82-119 is amended to read as follows:

<< AR ST § 26-82-119 >>

26-82-119. Rules.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate reasonable rules to implement the enforcement, administration, and collection of a local sales and use tax authorized in this chapter.

SECTION 4484. Arkansas Code § 27-13-103 is amended to read as follows:

<< AR ST § 27-13-103 >>

27-13-103. Regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the authority to promulgate such regulations as are necessary to implement and administer the provisions of this act.

SECTION 4485. Arkansas Code § 27-14-103(a)(2)(A), concerning the exemption from registration for the Arkansas Forestry Commission, is amended to read as follows:

<< AR ST § 27-14-103 >>

(2)(A) The State Forester and the ~~Director~~ **Secretary** of the Department of Finance and Administration shall adopt identification tags or other insignia that shall be attached to the vehicles by the officers, members, and employees of the commission.

SECTION 4486. Arkansas Code § 27-14-305(a), concerning the penalty for using or making unofficial license plates, is amended to read as follows:

<< AR ST § 27-14-305 >>

(a) It shall be unlawful for the owner of any automobile, Class One truck, trailer or semitrailer, motorcycle, or motorcycle sidecar to display any license plate on the rear of the vehicle that is not furnished by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4487. Arkansas Code § 27-14-305(b)(3)(B), concerning the penalty for using or making unofficial license plates, is amended to read as follows:

<< AR ST § 27-14-305 >>

(B) Affixing of a decal bearing the commercial motor carrier's logo to a commercial motor vehicle's license plate if the decal has been authorized and approved by the ~~director~~ **secretary** or the ~~director's~~ **secretary's** designee as authorized under § 27-14-613.

SECTION 4488. Arkansas Code § 27-14-309(a), concerning failure to pay taxes on personal property or assess personal property as grounds for revocation, is amended to read as follows:

<< AR ST § 27-14-309 >>

(a) Upon sufficient proof or information that any motor vehicle has been licensed and registered in this state without the tax due on all the personal property of the applicant having been paid or without having been listed for assessment or assessed, the ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to revoke the license and registration of the motor vehicle.

SECTION 4489. Arkansas Code § 27-14-311(a)(1), concerning an appeal of revocation of a license or permit by a dealer, is amended to read as follows:

<< AR ST § 27-14-311 >>

(a)(1) Any dealer whose license or permit has been revoked by the ~~Director~~ **Secretary** of the Department of Finance and Administration may appeal to the circuit court of the county in which the dealer's license or permit was issued, within thirty (30) days, by filing a petition and bond as in other cases of appeal to the circuit court.

SECTION 4490. Arkansas Code § 27-14-402 is amended to read as follows:

<< AR ST § 27-14-402 >>

27-14-402. Head of Office of Motor Vehicle.

The Office of Motor Vehicle shall be under the control of the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4491. Arkansas Code § 27-14-403 is amended to read as follows:

<< AR ST § 27-14-403 >>

27-14-403. Powers and duties.

- (a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is vested with the power and is charged with the duty of observing, administering, and enforcing the provisions of this chapter and of all laws regulating the operation of vehicles or the use of the highways, the enforcement or administration of which is vested in the Office of Motor Vehicle.
- (b) The ~~director~~ **secretary** may adopt and enforce such rules as necessary to carry out the provisions of this chapter and any other laws, the enforcement and administration of which are vested in the office.
- (c) The ~~director~~ **secretary** may adopt an official seal for the use of the office.

SECTION 4492. Arkansas Code § 27-14-404 is amended to read as follows:

<< AR ST § 27-14-404 >>

27-14-404. Organization.

- (a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall organize the Office of Motor Vehicle in the manner as he or she may deem necessary and proper to segregate and conduct the work of the office.
- (b) The ~~director~~ **secretary** shall appoint such deputies, subordinate officers, clerks, investigators, and other employees as may be necessary to carry out the provisions of this chapter.
- (c) The ~~director~~ **secretary** shall maintain an office in Little Rock, Arkansas, and in such other places in the state as he or she may deem necessary and proper to carry out the powers and duties vested in the office.

SECTION 4493. The introductory language of Arkansas Code § 27-14-405, concerning the authority of police and the officers and inspectors of the Office of Motor Vehicle, is amended to read as follows:

<< AR ST § 27-14-405 >>

The ~~Director~~ **Secretary** of the Department of Finance and Administration and the officers and inspectors of the Office of Motor Vehicle designated by the ~~director~~ **secretary** shall have the power:

SECTION 4494. Arkansas Code § 27-14-407(a)(1), concerning summons of witnesses by the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 27-14-407 >>

- (a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration and officers of the Office of Motor Vehicle designated by the ~~director~~ **secretary** shall have authority to summon witnesses to give testimony under oath or to give written deposition upon any matter under the jurisdiction of the office.

SECTION 4495. Arkansas Code § 27-14-407(c), concerning summons of witnesses by the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 27-14-407 >>

(c) Any court of competent jurisdiction shall have jurisdiction, upon application by the ~~director~~ **secretary**, to enforce all lawful orders of the ~~director~~ **secretary** under this section.

SECTION 4496. Arkansas Code § 27-14-410 is amended to read as follows:

<< AR ST § 27-14-410 >>

27-14-410. Forms.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall prescribe and provide suitable forms of applications, certificates of title, registration certificates, and all other forms requisite or necessary to carry out the provisions of this chapter and any other laws, the enforcement and administration of which are vested in the Office of Motor Vehicle.

SECTION 4497. Arkansas Code § 27-14-411(a), concerning the oaths and signatures of officers and employees of the Office of Motor Vehicle, is amended to read as follows:

<< AR ST § 27-14-411 >>

(a) Officers and employees of the Office of Motor Vehicle designated by the ~~Director~~ **Secretary** of the Department of Finance and Administration are, for the purpose of administering the motor vehicle laws, authorized to administer oaths and acknowledge signatures.

SECTION 4498. Arkansas Code § 27-14-412(b)(1), concerning the records of the Office of Motor Vehicle, is amended to read as follows:

<< AR ST § 27-14-412 >>

(b)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration and such officers of the office as the ~~director~~ **secretary** may designate are authorized to prepare under the seal of the office and deliver upon request a certified copy of any record of the office or a noncertified electronic copy of any record of the office.

SECTION 4499. Arkansas Code § 27-14-412(c), concerning the records of the Office of Motor Vehicle, is amended to read as follows:

<< AR ST § 27-14-412 >>

(c) The ~~director~~ **secretary** may destroy any records of the office that have been maintained on file for five (5) years that the ~~director~~ **secretary** considers obsolete and of no further service in carrying out the powers and duties of the office.

SECTION 4500. Arkansas Code § 27-14-501 is amended to read as follows:

<< AR ST § 27-14-501 >>

27-14-501. Creation.

An ex officio commission, composed of the ~~Director~~ **Secretary** of the Department of Finance and Administration, who shall serve as chair, the Chair of the State Highway Commission, and the Director of State Highways and Transportation,

is established for the purpose of representing the State of Arkansas in the matter of making reciprocal agreements relating to the operation of motor vehicles.

SECTION 4501. The introductory language of Arkansas Code § 27-14-504(a), concerning a proportionate refund of registration fees authorized, is amended to read as follows:

<< AR ST § 27-14-504 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to refund a proportionate part of the registration fees paid to this state under the provisions of the International Registration Plan which became effective July 1, 1976, under the following conditions:

SECTION 4502. Arkansas Code § 27-14-504(b) and (c), concerning a proportionate refund of registration fees authorized, are amended to read as follows:

<< AR ST § 27-14-504 >>

(b) The refund will be in an amount equal to that proportionate amount of the remaining registration year beginning with the month next following that month in which the ~~director~~ **secretary** is notified that the registrant wishes to cancel his or her registration by surrendering all registration documents and license plates.

(c) The ~~director~~ **secretary** is authorized to promulgate such rules and regulations as may be necessary to effectuate the terms of this section.

SECTION 4503. Arkansas Code § 27-14-505(b)(1)(A) and (B), concerning mileage audits, records reexaminations, and appeals, are amended to read as follows:

<< AR ST § 27-14-505 >>

(b)(1)(A) A registrant who desires a hearing to appeal the findings of a mileage audit or a record reexamination shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration in writing within thirty (30) calendar days from the date the registrant is notified of the findings of the mileage audit or the record reexamination.

(B) A hearing officer appointed by the ~~director~~ **secretary** shall schedule a hearing in any city in which the Department of Finance and Administration maintains a field audit district office or in any other city that the ~~director~~ **secretary** designates, unless the ~~director~~ **secretary** and the registrant agree to another location for the hearing or agree that the hearing shall be heard by telephone.

SECTION 4504. Arkansas Code § 27-14-505(b)(2)(B), concerning mileage audits, records reexaminations, and appeals, is amended to read as follows:

<< AR ST § 27-14-505 >>

(B) The registrant shall properly serve the ~~director~~ **secretary** with a copy of any appeal to circuit court challenging the decision of the hearing officer under this section.

SECTION 4505. Arkansas Code § 27-14-505(b)(4)(A), concerning mileage audits, records reexaminations, and appeals, is amended to read as follows:

<< AR ST § 27-14-505 >>

(4)(A) At the conclusion of the appeals process, the ~~director~~ **secretary** shall notify all affected member jurisdictions of the results of the appeal.

SECTION 4506. Arkansas Code § 27-14-505(c), concerning mileage audits, records reexaminations, and appeals, is amended to read as follows:

<< AR ST § 27-14-505 >>

(c) The ~~director~~ **secretary** may promulgate rules to implement this section.

SECTION 4507. Arkansas Code § 27-14-601(a)(3)(H)(iv), concerning fees for registration and licensing of motor vehicles, is amended to read as follows:

<< AR ST § 27-14-601 >>

(iv) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall cause to be issued special and distinctive license plates for vehicles in this classification, with separate farm license plates to be established for those vehicles used in the noncommercial hauling of farm products produced in this state, and for the hauling of feed, seed, fertilizer, poultry litter, and other products commonly produced or used in agricultural operations or compacted seed cotton and separate natural resources license plates to be established for those vehicles hauling timber products, clay minerals, or ores.

SECTION 4508. Arkansas Code § 27-14-601(a)(3)(H)(vi)(b), concerning fees for registration and licensing of motor vehicles, is amended to read as follows:

<< AR ST § 27-14-601 >>

(b) The ~~director~~ **secretary** shall issue special distinctive license plates or license plate validation decals for the vehicles, including the indication thereon of the expiration date, so as to identify them from annual plates.

SECTION 4509. Arkansas Code § 27-14-601(a)(3)(H)(viii), concerning fees for registration and licensing of motor vehicles, is amended to read as follows:

<< AR ST § 27-14-601 >>

(viii) The ~~director~~ **secretary** shall promulgate such rules and regulations as may be necessary to carry out the intent of this classification and prevent abuse thereof. However, before any such rules or regulations shall be effective, they shall be approved by majority action of the members of the State Highway Commission acting for

and in behalf of the Arkansas Highway Police Division of the Arkansas Department of Transportation, which is the agency charged with the principal responsibility of enforcing the motor vehicle license laws of this state.

SECTION 4510. Arkansas Code § 27-14-601(a)(3)(J)(i) and (ii), concerning fees for registration and licensing of motor vehicles, are amended to read as follows:

<< AR ST § 27-14-601 >>

(J)(i) The ~~director~~ **secretary** shall cause to be issued special and distinctive license plates for vehicles licensed under Class Two — Class Seven in this section, which are utilized as wreckers or tow vehicles and that hold a permit issued by the Arkansas Towing and Recovery Board under § 27-50-1203 and the rules and regulations promulgated thereunder.

(ii) Before any license may be issued for a vehicle designated as a wrecker or tow vehicle, the applicant shall furnish to the ~~director~~ **secretary** a certification from the board that the wrecker or tow vehicle has been permitted as a wrecker or tow vehicle by the board.

SECTION 4511. Arkansas Code § 27-14-601(a)(3)(J)(iv), concerning fees for registration and licensing of motor vehicles, is amended to read as follows:

<< AR ST § 27-14-601 >>

(iv) In addition to the fee for the respective Class Two — Class Seven license, the ~~director~~ **secretary** may assess a handling and administrative fee in the amount of ten dollars (\$10.00) for each distinctive wrecker or tow vehicle license plate.

SECTION 4512. Arkansas Code § 27-14-601(a)(6)(B)(i), concerning fees for registration and licensing of motor vehicles, is amended to read as follows:

<< AR ST § 27-14-601 >>

(B)(i) As a condition precedent to obtaining dealer's license plates, the dealer shall furnish the ~~director~~ **secretary** a certification that the applicant is a vehicle dealer and has a bona fide, established place of business used for the sale of vehicles, an office used for that business, a telephone listed in the name of the business, and a sign identifying the establishment. Certification shall be required for all renewals of dealer license plates. This dealer certification shall not apply to dealers licensed by the ~~Department~~ **Division** of Arkansas State Police, the Arkansas Motor Vehicle Commission, or the Arkansas Manufactured Home Commission and who are regulated by those authorities. The dealer certification shall consist of completion of a self-certification form prepared by the Office of Motor Vehicle.

SECTION 4513. Arkansas Code § 27-14-601(a)(6)(B)(ii)(a), concerning fees for registration and licensing of motor vehicles, is amended to read as follows:

<< AR ST § 27-14-601 >>

(ii)(a) Except as provided in subdivision (a)(6)(B)(iv) of this section for dealers who sell only all-terrain vehicles, upon furnishing the certification to the ~~director~~ **secretary**, or a copy of the dealer's license from either the ~~Department~~ **Division** of Arkansas State Police or the Arkansas Motor Vehicle Commission and the payment of a fee of one hundred dollars (\$100), the dealer shall be issued a master license plate and upon the payment of a fee of twenty-five dollars (\$25.00) shall be issued a dealer's extra license plate as provided in § 27-14-1704. However, the dealer must secure a master license plate for each separate place of business.

SECTION 4514. Arkansas Code § 27-14-601(a)(6)(B)(iii)(a), concerning fees for registration and licensing of motor vehicles, is amended to read as follows:

<< AR ST § 27-14-601 >>

(iii)(a) Upon furnishing certification to the ~~director~~ **secretary** or a copy of the dealer's license from the Arkansas Manufactured Home Commission and upon the payment of fifty dollars (\$50.00), the manufactured home dealer shall be issued certification from the ~~director~~ **secretary** for the purpose of assigning manufactured home titles.

SECTION 4515. Arkansas Code § 27-14-601(a)(6)(B)(iv)(a) and (b), concerning fees for registration and licensing of motor vehicles, are amended to read as follows:

<< AR ST § 27-14-601 >>

(iv)(a) Upon furnishing certification to the ~~director~~ **secretary** or a copy of the dealer's license from the Arkansas Motor Vehicle Commission and upon the payment of one hundred dollars (\$100), dealers engaged exclusively in the business of buying and selling all-terrain vehicles, as defined in § 27-21-102, shall be issued certification from the ~~director~~ **secretary** for the purpose of assigning all-terrain vehicle titles.

(b) Each dealer location shall be treated as a separate entity, and certification by the ~~director~~ **secretary** shall be required for each location.

SECTION 4516. Arkansas Code § 27-14-601(b)(2)(D)(i) and (ii), concerning fees for registration and licensing of motor vehicles, are amended to read as follows:

<< AR ST § 27-14-601 >>

(D)(i) The ~~director~~ **secretary** shall, upon request, assign the same registration period to any owner of two (2) or more trucks, truck-tractors, trailers, and semitrailers, and combinations thereof, except Class One trucks as defined in § 27-14-1002.

(ii) The ~~director~~ **secretary** shall, upon request, assign a different month of registration other than the vehicle's current month of registration to any owner of a truck, truck-tractor, trailer, and semitrailer, and combinations thereof, except Class One trucks as defined in § 27-14-1002, and all fees shall be prorated accordingly on a monthly basis.

SECTION 4517. The introductory language of Arkansas Code § 27-14-602(c), concerning registration fees for motor vehicle registrations, is amended to read as follows:

<< AR ST § 27-14-602 >>

(c) Beginning January 1, 2018, in addition to any other fees authorized under this chapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall charge a fee for commercial motor vehicles registered with the International Registration Plan in the amount of:

SECTION 4518. Arkansas Code § 27-14-602(c)(1), concerning registration fees for motor vehicle registrations, is amended to read as follows:

<< AR ST § 27-14-602 >>

(1) Two dollars (\$2.00) to access the ~~director's~~ **secretary's** portal to register one (1) or more commercial motor vehicles or to conduct one (1) or more online administrative transactions;

SECTION 4519. Arkansas Code § 27-14-605 is amended to read as follows:

<< AR ST § 27-14-605 >>

27-14-605. Credit if vehicle destroyed.

Upon satisfactory proof to the ~~Director~~ **Secretary** of the Department of Finance and Administration that any motor vehicle, duly licensed, has been completely destroyed by fire or collision, the owner of the vehicle may be allowed, on the purchase of a new license for another vehicle, a credit equivalent to the unexpired portion of the cost of the original license, dating from the first day of the next month after the date of the destruction.

SECTION 4520. Arkansas Code § 27-14-607 is amended to read as follows:

<< AR ST § 27-14-607 >>

27-14-607. Alternate registration procedures.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to allow vehicles to be registered for a renewal period of two (2) years, if the ~~director~~ **secretary** determines that the two-year renewal period would facilitate the vehicle registration process. If a vehicle registration is renewed for a two-year period, the renewal fee shall be two (2) times the annual renewal fee for that vehicle, plus the cost of the annual license plate validation decal for both years for that vehicle.

(b) The ~~director~~ **secretary** is authorized to provide for the registration of vehicles by mail, telephone, electronically, or any other method which the ~~director~~ **secretary** determines would facilitate the vehicle registration process.

SECTION 4521. Arkansas Code § 27-14-608 is amended to read as follows:

<< AR ST § 27-14-608 >>

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 4522. Arkansas Code § 27-14-611(f)(2), concerning registration for nonprofit motor vehicle fleets, is amended to read as follows:

<< AR ST § 27-14-611 >>

(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.

SECTION 4523. The introductory language of Arkansas Code § 27-14-613(b)(1), concerning the Arkansas Motor Carrier System, is amended to read as follows:

<< AR ST § 27-14-613 >>

(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 4524. Arkansas Code § 27–14–613(b)(1)(C), concerning the Arkansas Motor Carrier System, is amended to read as follows:

<< AR ST § 27–14–613 >>

(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 4525. Arkansas Code § 27–14–613(b)(2)(B), concerning the Arkansas Motor Carrier System, is amended to read as follows:

<< AR ST § 27–14–613 >>

(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 4526. Arkansas Code § 27–14–613(c), concerning the Arkansas Motor Carrier System, is amended to read as follows:

<< AR ST § 27–14–613 >>

(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 4527. Arkansas Code § 27–14–701(b), concerning requirements and exceptions for motor vehicle permits, is amended to read as follows:

<< AR ST § 27–14–701 >>

(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 operated temporarily pending complete registration upon displaying a duplicate application, duly verified, or other evidence of the application or otherwise under rules and regulations promulgated by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4528. Arkansas Code § 27–14–702(a), concerning the requirement of only a certificate from the Director of the Department of Finance and Administration to use and operate a motor vehicle, is amended to read as follows:

<< AR ST § 27–14–702 >>

(a) No owner of a motor vehicle who shall have obtained a certificate from the ~~Director~~ **Secretary** of the Department of Finance and Administration as provided in this subchapter shall be required to obtain any other license or permits to use and operate the motor vehicle; nor shall the owner be required to display upon his or her motor vehicle any other number than the number of the registration issued by the ~~director~~ **secretary**, or excluded, or prohibited, or limited in

the free use of the motor vehicle upon any public street, avenue, road, turnpike, driveway, parkway, or any other public place, at any time when it is open to the use of persons having or using other vehicles; nor shall the owner be required to comply with other provisions or conditions as to the use of motor vehicles, except as provided in this chapter.

SECTION 4529. Arkansas Code § 27-14-704(a)(3)(B), concerning motor vehicles registered in foreign states, is amended to read as follows:

<< AR ST § 27-14-704 >>

(B) The ~~Director~~ **Secretary** of the Department of Finance and Administration may issue temporary permits without payment of license fees for motor vehicles operated for hire by a nonresident into and across the highways of this state when the vehicles are operated upon charters for casual, irregular, occasional, and nonscheduled sightseeing trips; and

SECTION 4530. Arkansas Code § 27-14-704(a)(4), concerning motor vehicles registered in foreign states, is amended to read as follows:

<< AR ST § 27-14-704 >>

(4) The ~~director~~ **secretary** is authorized and empowered to enter into any agreement or issue any permit for the operation of any motor vehicles upon the highways of this state without payment of license fees when the vehicles are operated under and by the supervision of the proper authorities of the United States Army, United States Air Force, United States Navy, or United States Marine Corps during any period of emergency.

SECTION 4531. Arkansas Code § 27-14-705(b)(2)(C), concerning the application for registration and certificate of title, is amended to read as follows:

<< AR ST § 27-14-705 >>

(C) The certificate of origin shall be on a form to be prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4532. Arkansas Code § 27-14-709 is amended to read as follows:

<< AR ST § 27-14-709 >>

27-14-709. Half-year license.

Notwithstanding any provision of law to the contrary, any motor vehicle for which the annual registration and licensing fee is one hundred dollars (\$100) or more, for any twelve-month licensing period, may be licensed for the first six (6) months of the annual licensing period, upon payment of one-half (1/2) of the annual registration and licensing fee, plus an additional fee of five dollars (\$5.00) to defray the administrative cost of issuing the half-year license, under such regulations as the ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate.

SECTION 4533. Arkansas Code § 27-14-906(a)-(d), concerning dealer and lienholder applications for registration and title certificates, are amended to read as follows:

<< AR ST § 27-14-906 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration may permit lienholders and motor vehicle dealers to make applications for registration and certificates of title and to furnish them to the Office of Motor Vehicle on behalf of the purchaser of a new or used motor vehicle.

(b) The ~~director~~ **secretary** shall promulgate reasonable rules to be complied with by motor vehicle dealers and lienholders in making application for registration and certificates of title on behalf of purchasers of new or used motor vehicles and may, if the ~~director~~ **secretary** deems necessary, require the dealer or lienholder to post bond to ensure faithful compliance with the rules.

(c)(1) Any motor vehicle dealer or lienholder who has been authorized by the ~~director~~ **secretary** to prepare applications for registration and certificates of title with respect to new or used motor vehicles shall transmit the applications to the ~~director~~ **secretary** and shall attach thereto a copy of any conditional sales contract, conditional lease, chattel mortgage, or other lien or encumbrance or title retention instrument upon the motor vehicle.

(2) Upon receipt of the documents under subdivision (c)(1) of this section, the ~~director~~ **secretary** shall file a lien and encumbrance, as provided in § 27-14-801 et seq., which from the date of filing shall be notice of the lien or encumbrance.

(d) On issuing the registration and certificate of title, the ~~director~~ **secretary** shall mail the registration to the owner and the title to the lienholder, or to the owner if no lien exists.

SECTION 4534. Arkansas Code § 27-14-907(c), concerning transfer of title by operation of law, is amended to read as follows:

<< AR ST § 27-14-907 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the power to adopt rules to establish what documents or evidence are required to verify that a lien or encumbrance holder or his or her assignee has complied with this section.

SECTION 4535. Arkansas Code § 27-14-914(a)(1), concerning the transfer of license plates and registration from one vehicle to another, is amended to read as follows:

<< AR ST § 27-14-914 >>

(a)(1) When the owner of any motor vehicle, excepting Class One trucks and passenger automobiles other than buses, registered and licensed in this state, shall sell or transfer the motor vehicle or when the motor vehicle has been destroyed so as to be unfit for repair or further use, and the owner shall replace the vehicle with another motor vehicle requiring payment of the same registration or license fee, the owner may, at his or her election, transfer the license plate and registration of the vehicle being so disposed of to the vehicle acquired as a replacement thereof, upon payment to the ~~Director~~ **Secretary** of the Department of Finance and Administration of a transfer fee of ten dollars (\$10.00) per vehicle.

SECTION 4536. Arkansas Code § 27-14-914(b), concerning the transfer of license plates and registration from one vehicle to another, is amended to read as follows:

<< AR ST § 27-14-914 >>

(b) The ~~director~~ **secretary** shall provide suitable forms to enable owners electing to do so to transfer license plate or plates and registration and make payment of the fee provided in this section and shall be empowered to make reasonable rules and regulations governing these transfers.

SECTION 4537. Arkansas Code § 27-14-915(a) and (b), concerning the transfer of a license on vehicles for hire, are amended to read as follows:

<< AR ST § 27-14-915 >>

(a) When the owner of a vehicle licensed to operate for hire takes the vehicle out of the for-hire service, the ~~Director~~ **Secretary** of the Department of Finance and Administration, upon the payment of a transfer charge of two dollars (\$2.00), will cause the license for the vehicle to be transferred to another vehicle for like use to be registered by the owner.

(b) If the fee for registration and licensing the vehicle under registration is greater than that represented by the license to be transferred, then the ~~director~~ **secretary** shall, in addition, collect an amount equal to the excess payable for the vehicle under registration.

SECTION 4538. Arkansas Code § 27-14-915(d)(1), concerning the transfer of a license on vehicles for hire, is amended to read as follows:

<< AR ST § 27-14-915 >>

(d)(1) Upon the transfer of a license, the ~~director~~ **secretary** will cause to be cancelled all registrations on the vehicle taken out of for-hire service.

SECTION 4539. Arkansas Code § 27-14-1002(a)(6), concerning the definition of “tab or decal” under the Permanent Automobile Licensing Act of 1967, is amended to read as follows:

<< AR ST § 27-14-1002 >>

(6) “Tab or decal” is an attachable material of such form and substance as the ~~Director~~ **Secretary** of the Department of Finance and Administration may prescribe by rule or regulation.

SECTION 4540. Arkansas Code § 27-14-1004(a), concerning penalties under the Permanent Automobile Licensing Act of 1967, is amended to read as follows:

<< AR ST § 27-14-1004 >>

(a) Any person failing to comply with the provisions of this subchapter by operating a passenger motor vehicle, as set forth and described in § 27-14-1002(a), or by operating a Class One truck, as set forth and described in § 27-14-1002(a), which is subject to registration under the laws of this state on any street, road, or highway in the State of Arkansas without having first registered the motor vehicle with the Office of Motor Vehicle, in the manner and within the period required by law or regulations of the ~~Director~~ **Secretary** of the Department of Finance and Administration, shall be required to pay a penalty of three dollars (\$3.00) for each ten (10) days, or fraction thereof, for which he or she fails properly to register the vehicle until the penalty reaches the same amount as the annual license fee of the vehicle to be registered.

SECTION 4541. Arkansas Code § 27–14–1005(a), concerning failure to affix or display license plates, is amended to read as follows:

<< AR ST § 27–14–1005 >>

(a) The failure of the motor vehicle owner to affix and display the permanent license plates, the tab or decal, or the registration card, in the places designated by the ~~Director~~ **Secretary** of the Department of Finance and Administration, shall be a misdemeanor subject to the penalties provided by § 27–14–301.

SECTION 4542. Arkansas Code § 27–14–1006(a), concerning the authority to issue a permanent license plate subject to replacement, is amended to read as follows:

<< AR ST § 27–14–1006 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to issue to the owner of a vehicle subject to this subchapter a permanent license plate subject to replacement at the request of the owner because of theft, loss, wear, or mutilation, or at the discretion of either the Director of the ~~Department~~ **Division** of Arkansas State Police or the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4543. Arkansas Code § 27–14–1007 is amended to read as follows:

<< AR ST § 27–14–1007 >>

27–14–1007. Issuance of license plate.

Upon registration, the owner of every vehicle of a type subject to the provisions of this subchapter shall receive a permanent license plate issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration upon the payment of the fees required by law.

SECTION 4544. Arkansas Code § 27–14–1008(a)(1), concerning the issuance of permanent reflectorized license plates, is amended to read as follows:

<< AR ST § 27–14–1008 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to issue permanent reflectorized license plates in such form as he or she shall prescribe.

SECTION 4545. Arkansas Code § 27–14–1008(a)(3), concerning the issuance of permanent reflectorized license plates, is amended to read as follows:

<< AR ST § 27–14–1008 >>

(3) Each reflectorized license plate so issued by the ~~director~~ **secretary** shall have imprinted thereon a multicolor reflectorized graphic design or logo in such a manner and of such design as he or she shall prescribe which will promote tourism and improve public relations inside and outside the State of Arkansas.

SECTION 4546. Arkansas Code § 27–14–1008(c), concerning the issuance of permanent reflectorized license plates, is amended to read as follows:

<< AR ST § 27-14-1008 >>

(c) All license plates that have been issued prior to the enactment of this section shall be replaced by the ~~director~~ **secretary** with license plates that shall conform to this subchapter and be attached to motor vehicles during a replacement or recycle period beginning not earlier than January 1, 1980, nor later than January 31, 1981.

SECTION 4547. Arkansas Code § 27-14-1009(a)(1), concerning the issuance of specialized license plates, is amended to read as follows:

<< AR ST § 27-14-1009 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide for and issue a special personalized license plate for passenger motor vehicles.

SECTION 4548. Arkansas Code § 27-14-1009(a)(3)(B), concerning the issuance of specialized license plates, is amended to read as follows:

<< AR ST § 27-14-1009 >>

(B) The ~~director~~ **secretary**, in his or her discretion, may limit the number of characters or the context in which they appear on the license plate.

SECTION 4549. Arkansas Code § 27-14-1009(d), concerning the issuance of specialized license plates, is amended to read as follows:

<< AR ST § 27-14-1009 >>

(d) The ~~director~~ **secretary** may adopt regulations concerning the issuance of a special personalized license plate.

SECTION 4550. Arkansas Code § 27-14-1010(a), concerning a registration certificate for a motor vehicle, is amended to read as follows:

<< AR ST § 27-14-1010 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue to each owner of a motor vehicle subject to this subchapter a registration certificate which must be kept in the motor vehicle in the place prescribed by the ~~director~~ **secretary**.

SECTION 4551. Arkansas Code § 27-14-1011 is amended to read as follows:

<< AR ST § 27-14-1011 >>

27-14-1011. Registration on monthly-series basis — Renewal periods.

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall establish a system of registration on a monthly-series basis to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve (12) months of the calendar year.

(2) The ~~director~~ **secretary** may set the number of renewal periods within the month from one (1) each month to one (1) each day of the month depending on which system is most economical and best accommodates the public.

(b) If the ~~director~~ **secretary** elects to use monthly renewal periods, when a person applies for the registration of a vehicle and the issuance of a permanent license plate, the decals issued by the ~~director~~ **secretary** for attachment to the permanent license plates to evidence the registration period shall be decals for the current month in which application is made for registration, regardless of the day of the month on which application is made.

(c) The ~~director~~ **secretary** shall, upon request, assign to any owner of two (2) or more vehicles the same registration period.

(d) Registration shall be valid for one (1) year from the date thereof and shall continue from year to year thereafter as long as renewed each year within the time required by law.

(e) The ~~director~~ **secretary** shall establish a system to allow owners to renew their motor vehicle registrations by facsimile machine and to charge their fees to credit cards. The ~~director~~ **secretary** shall obtain a number of facsimile machines and publish the telephone numbers of these machines and make agreements with credit card companies so as to best accommodate the public.

SECTION 4552. Arkansas Code § 27-14-1012(a)(1), concerning applications for registrations or renewals, is amended to read as follows:

<< AR ST § 27-14-1012 >>

(a)(1) An applicant may apply, in person or by mail, for the issuance of permanent license plates to the revenue office in the county where he or she resides or to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4553. Arkansas Code § 27-14-1012(a)(2)(A), concerning applications for registrations or renewals, is amended to read as follows:

<< AR ST § 27-14-1012 >>

(A) Transmitting the required documents and the registration fee by mail to the applicant's local revenue office or to the ~~director~~ **secretary**;

SECTION 4554. Arkansas Code § 27-14-1012(b)(1), concerning applications for registrations or renewals, is amended to read as follows:

<< AR ST § 27-14-1012 >>

(b)(1) Not less than thirty (30) days before the expiration of the license, the ~~director~~ **secretary** shall notify the owner of a registered motor vehicle subject to this subchapter.

SECTION 4555. Arkansas Code § 27-14-1012(b)(2)(B), concerning applications for registrations or renewals, is amended to read as follows:

<< AR ST § 27-14-1012 >>

(B) Email to the email address provided to the ~~director~~ **secretary** by the motor vehicle owner in connection with a consent to receive the annual motor vehicle registration renewal notice by email.

SECTION 4556. Arkansas Code § 27-14-1012(d), concerning applications for registrations or renewals, is amended to read as follows:

<< AR ST § 27-14-1012 >>

(d) The ~~director~~ **secretary** is authorized to impose a first class postage fee for handling the issuance of all new licenses or renewals by mail and to impose an additional fee to recover any credit card fees charged by credit card companies.

SECTION 4557. The introductory language of Arkansas Code § 27-14-1013, concerning the renewals of registration, is amended to read as follows:

<< AR ST § 27-14-1013 >>

The owner of any permanent license plate issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration may renew his or her registration:

SECTION 4558. Arkansas Code § 27-14-1013(1), concerning the renewals of registration, is amended to read as follows:

<< AR ST § 27-14-1013 >>

(1) In person or by mail at a county revenue office or with the ~~director~~ **secretary**;

SECTION 4559. The introductory language of Arkansas Code § 27-14-1014(a)(1), concerning application forms for renewals of registration, is amended to read as follows:

<< AR ST § 27-14-1014 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall send application forms for all renewals of registration under this subchapter by:

SECTION 4560. Arkansas Code § 27-14-1014(a)(1)(B), concerning application forms for renewals of registration, is amended to read as follows:

<< AR ST § 27-14-1014 >>

(B) Email sent to the address provided to the ~~director~~ **secretary** by the motor vehicle owner in connection with a consent to receive the annual motor vehicle registration renewal notice and application forms by email.

SECTION 4561. Arkansas Code § 27-14-1014(a)(2), concerning application forms for renewals of registration, is amended to read as follows:

<< AR ST § 27-14-1014 >>

(2) The ~~director~~ **secretary** shall not be required to go beyond the face of the last registration.

SECTION 4562. Arkansas Code § 27-14-1015(b)(1), concerning the payment of personal property taxes and the listing for assessment required, is amended to read as follows:

<< AR ST § 27-14-1015 >>

(b)(1) The county tax assessor and county tax collector shall provide to the ~~Director~~ **Secretary** of the Department of Finance and Administration updates to the state vehicle registration system to indicate whether or not the owner of each vehicle registered in the county has assessed the vehicle and owes no delinquent personal property taxes. ~~The updates shall be required not later than January 1, 1999.~~

SECTION 4563. Arkansas Code § 27-14-1015(b)(3), concerning the payment of personal property taxes and the listing for assessment required, is amended to read as follows:

<< AR ST § 27-14-1015 >>

(3) The ~~director~~ **secretary** shall provide free of charge to each county assessor and to each county collector in this state, such additional computer hardware, software, and telecommunications links as he or she deems are essential to allow the county assessors and collectors to electronically forward to the Department of Finance and Administration updates to the vehicle registration system for the purposes of adding, changing, or removing information identifying vehicles which have been assessed within the time frame required by law, and vehicles for which the owners have paid personal property taxes within the time frame required by law.

SECTION 4564. Arkansas Code § 27-14-1015(c), concerning the payment of personal property taxes and the listing for assessment required, is amended to read as follows:

<< AR ST § 27-14-1015 >>

(c) There is hereby levied a new fee of two dollars and fifty cents (\$2.50) for the sale of each annual license plate validation decal for a motor vehicle. This new fee shall be collected by the ~~director~~ **secretary** at the same time the vehicle registration fees imposed by § 27-14-601 are collected. However, this new decal fee shall be accounted for separately from the registration fee. The amount shall be mandatory and is collected for the purpose of extending to vehicle owners the additional services and conveniences of the options to renew vehicle registrations by telephone, electronically, by mail, or in person without requiring applicants to submit to the ~~director~~ **secretary** proof of assessment and payment of personal property taxes.

SECTION 4565. Arkansas Code § 27-14-1015(d), concerning the payment of personal property taxes and the listing for assessment required, is amended to read as follows:

<< AR ST § 27-14-1015 >>

(d)(1) One dollar and fifty cents (\$1.50) of the amount collected by the ~~director~~ **secretary** pursuant to subsection (c) of this section for each annual license plate validation decal shall not be deposited in the State Treasury but shall be remitted to the Arkansas Development Finance Authority.

(2) One dollar (\$1.00) of the amount collected by the ~~director~~ **secretary** pursuant to subsection (c) of this section for each annual license plate validation decal shall be deposited into the State Treasury as direct revenues to the State Central Services Fund, there to be used by the Revenue Division of the Department of Finance and Administration in supporting those activities and programs which will facilitate extending to vehicle owners the additional services and conveniences of the options to renew vehicle registrations by telephone, electronically, by mail, or in person without requiring applicants to submit to the ~~director~~ **secretary** proof of assessment and payment of personal property taxes or proof of automobile liability insurance coverage.

(3) All amounts derived from the new fee imposed by subsection (c) of this section for the sale of annual license plate validation decals, whether held by the ~~director~~ **secretary** or the authority, which are to be remitted to the authority shall be cash funds not subject to appropriation and shall be used and applied by the authority only as provided in § 22-3-1225. The fees charged for the annual license plate validation decal and paid to the authority pursuant to subdivision (d)(1) of this section shall not be reduced or otherwise impaired during the time that the fees are pledged by the authority to the repayment of any of the authority's bonds issued in accordance with § 22-3-1225.

SECTION 4566. Arkansas Code § 27-14-1016 is amended to read as follows:

<< AR ST § 27-14-1016 >>

27-14-1016. Other information required.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may require such other information of applicants as he or she deems necessary for the proper licensing of motor vehicles and the proper maintenance of a motor vehicle register.

SECTION 4567. Arkansas Code § 27-14-1018 is amended to read as follows:

<< AR ST § 27-14-1018 >>

27-14-1018. Issuance of annual tab or decal.

(a) In conjunction with the permanent license plate for a motor vehicle other than a commercial motor vehicle registered with the International Registration Plan, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a tab or decal annually or, when appropriate, to each qualified applicant as evidence of the annual payment of license fees.

(b) A motor vehicle owner shall affix and display the tab or decal in such place as the ~~director~~ **secretary** shall designate.

SECTION 4568. Arkansas Code § 27-14-1019 is amended to read as follows:

<< AR ST § 27-14-1019 >>

27-14-1019. Changes of address.

(a) Every owner of a motor vehicle subject to this subchapter shall report to the ~~Director~~ **Secretary** of the Department of Finance and Administration any change of address from that listed when the vehicle was registered.

(b) The willful failure or neglect of an owner to report the change of address shall be a misdemeanor and shall subject the owner to the penalties provided by § 27-14-301 and shall relieve the ~~director~~ **secretary** of any obligation of notifying the owner of expiration of his or her motor vehicle license and registration.

SECTION 4569. Arkansas Code § 27-14-1020 is amended to read as follows:

<< AR ST § 27-14-1020 >>

27-14-1020. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate such reasonable rules and regulations and prescribe such forms as are necessary for the proper enforcement of this subchapter.

SECTION 4570. The introductory language of Arkansas Code § 27-14-1021(a), concerning the annual notification of requirements, is amended to read as follows:

<< AR ST § 27-14-1021 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall send to each vehicle owner in this state the following information:

SECTION 4571. The introductory language of Arkansas Code § 27-14-1021(b), concerning the annual notification of requirements, is amended to read as follows:

<< AR ST § 27-14-1021 >>

(b) The ~~director~~ **secretary** may comply with the requirements set forth in subsection (a) of this section by including the information in the annual vehicle registration renewal notice sent to each vehicle owner by:

SECTION 4572. Arkansas Code § 27-14-1021(c), concerning the annual notification of requirements, is amended to read as follows:

<< AR ST § 27-14-1021 >>

(c) The ~~director~~ **secretary** shall also cause to be displayed, in conspicuous fashion, at each revenue office in this state, the information set forth in subsection (a) of this section.

SECTION 4573. Arkansas Code § 27-14-1101(a), concerning the authority to issue special personalized prestige license plates for passenger automobiles and motorcycles, is amended to read as follows:

<< AR ST § 27-14-1101 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide for and issue special personalized prestige license plates for passenger automobiles and motorcycles.

SECTION 4574. Arkansas Code § 27-14-1104 is amended to read as follows:

<< AR ST § 27-14-1104 >>

27-14-1104. Rules and regulations.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to promulgate rules and regulations regarding the maximum and minimum number of letters, numbers, or symbols on special personalized prestige license plates issued under this subchapter.

(b) The ~~director~~ **secretary** may also promulgate such other rules and regulations as shall be deemed necessary or desirable for effectively carrying out the intent and purposes of this subchapter and the laws of this state relative to the regulation and licensing of motor vehicles.

SECTION 4575. Arkansas Code § 27-14-1202(a)(1), concerning the definition of “decal” under the Permanent Trailer Licensing Act of 1979, is amended to read as follows:

<< AR ST § 27-14-1202 >>

(1) “Decal” means an attachable material of such form and substance as the ~~Director~~ **Secretary** of the Department of Finance and Administration may prescribe by rule or regulation;

SECTION 4576. Arkansas Code § 27-14-1204(b), concerning penalties under the Permanent Trailer Licensing Act of 1979, is amended to read as follows:

<< AR ST § 27-14-1204 >>

(b) The failure of the trailer owner to affix and display the permanent license plates, the tab or decal, or the registration card, in the places designated by the ~~Director~~ **Secretary** of the Department of Finance and Administration, shall be a misdemeanor subject to the penalties provided by § 27-14-301.

SECTION 4577. Arkansas Code § 27-14-1206 is amended to read as follows:

<< AR ST § 27-14-1206 >>

27-14-1206. Time and place for registration or renewal.

(a) An applicant may apply, in person or by mail, for the issuance of permanent license plates to the revenue collector in the county where he or she resides or to the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) Thirty (30) days before the expiration of a license issued ~~prior to January 1, 2002~~ , the ~~director~~ **secretary** shall notify the owner of a registered trailer subject to this subchapter at the last address of the owner of the trailer as the owner's name and address appear on the records of the Office of Motor Vehicle, but the ~~director~~ **secretary** is not required to go beyond the face of the last registration statement.

(c)(1) A proper application for registration or renewal of a registration issued ~~prior to January 1, 2002~~ , by mail must be postmarked not later than fifteen (15) days before the date for renewal in order to allow time for processing.

(2) The ~~director~~ **secretary** is authorized to impose a first class postage fee for handling the issuance of all new licenses or renewals by mail.

SECTION 4578. Arkansas Code § 27-14-1207 is amended to read as follows:

<< AR ST § 27-14-1207 >>

27-14-1207. Information required of applicant.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may require such other information of applicants as he or she deems necessary for the proper licensing of trailers and the proper maintenance of a trailer register.

SECTION 4579. Arkansas Code § 27-14-1209(a), concerning the issuance of a registration certificate, is amended to read as follows:

<< AR ST § 27-14-1209 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue to each owner of a trailer subject to this subchapter a registration certificate, which must be kept in the place prescribed by the ~~director~~ **secretary**.

SECTION 4580. Arkansas Code § 27-14-1210(a), concerning the fee under the Permanent Trailer Licensing Act of 1979, is amended to read as follows:

<< AR ST § 27-14-1210 >>

(a) Upon registration, the owner of every trailer of a type subject to the provisions of this subchapter shall receive a permanent license plate issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration upon the payment of the fee set forth in § 27-14-601.

SECTION 4581. Arkansas Code § 27-14-1211(a), concerning the issuance of a permanent plate under the Permanent Trailer Licensing Act of 1979, is amended to read as follows:

<< AR ST § 27-14-1211 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to issue to the owner of a trailer subject to this subchapter a permanent license plate, subject to replacement, upon payment of the fee set forth in § 27-14-601.

SECTION 4582. Arkansas Code § 27-14-1212(a), concerning the issuance of reflectorized plates under the Permanent Trailer Licensing Act of 1979, is amended to read as follows:

<< AR ST § 27-14-1212 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to issue permanent reflectorized license plates in such form as he or she shall prescribe.

SECTION 4583. Arkansas Code § 27-14-1213 is amended to read as follows:

<< AR ST § 27-14-1213 >>

27-14-1213. Distribution of renewal applications.

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall mail application forms for all renewals of registration under this subchapter issued prior to January 1, 2002, to the last address of the owner of the trailer as the owner's name and address appear on the records of the Office of Motor Vehicle.

(b) The ~~director~~ **secretary** shall not be required to go beyond the face of the last registration, and the failure of an owner to receive notice of expiration of his or her trailer license shall not be construed as an extenuating circumstance for the failure of a trailer owner to renew his or her license on time.

SECTION 4584. Arkansas Code § 27-14-1214(a), concerning renewal of registration under Permanent Trailer Licensing Act of 1979, is amended to read as follows:

<< AR ST § 27-14-1214 >>

(a) The owner of any permanent license plate issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration prior to January 1, 2002, may renew his or her registration, in person or by mail, at a county revenue office or with the ~~director~~ **secretary** during any day from thirty (30) days prior to the date on which his or her registration shall expire.

SECTION 4585. Arkansas Code § 27-14-1217(a), concerning the report of a change of address, is amended to read as follows:

<< AR ST § 27-14-1217 >>

(a) Every owner of a trailer subject to this subchapter shall report to the ~~Director~~ **Secretary** of the Department of Finance and Administration any change of address from that listed when the trailer was registered.

SECTION 4586. Arkansas Code § 27-14-1217(b)(3), concerning the report of a change of address, is amended to read as follows:

<< AR ST § 27-14-1217 >>

(3) Relieve the ~~director~~ **secretary** of any obligation of notifying the owner of expiration of his or her trailer license and registration.

SECTION 4587. Arkansas Code § 27-14-1218 is amended to read as follows:

<< AR ST § 27-14-1218 >>

27-14-1218. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate such reasonable rules and regulations and prescribe such forms as are necessary for the proper enforcement of this subchapter.

SECTION 4588. Arkansas Code § 27-14-1303 is amended to read as follows:

<< AR ST § 27-14-1303 >>

27-14-1303. Administration.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized and directed to supply license plates to properly designate or identify the various classes of vehicles covered in this subchapter and to enforce this subchapter.

SECTION 4589. Arkansas Code § 27–14–1304(a)(1), concerning the rules and regulations of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 27–14–1304 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules and regulations and prescribe forms for the proper enforcement of this subchapter.

SECTION 4590. Arkansas Code § 27–14–1304(b)(1), concerning the rules and regulations of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 27–14–1304 >>

(b)(1) A complete file of all rules, regulations, and forms shall be kept in the office of the ~~director~~ **secretary**.

SECTION 4591. Arkansas Code § 27–14–1305(a), concerning the annual report regarding the licensing of trucks and trailers, is amended to read as follows:

<< AR ST § 27–14–1305 >>

(a) Annually, on or before December 31 of each year, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall make a report of his or her administration of this subchapter to the Governor.

SECTION 4592. Arkansas Code § 27–24–1425(a), concerning the special license plate for the Arkansas State Chapter of the National Wild Turkey Federation, Inc., is amended to read as follows:

<< AR ST § 27–24–1425 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall create and issue an Arkansas State Chapter of the National Wild Turkey Federation, Inc. special license plate in the manner and subject to the conditions provided for under this subchapter.

SECTION 4593. Arkansas Code § 27–14–1501(a), concerning the liability insurance prerequisite to licensing, is amended to read as follows:

<< AR ST § 27–14–1501 >>

(a) No license shall be issued for any taxicab, automobile, or similar vehicle used for hire, nor shall these vehicles be operated or used in and upon the streets, roads, and highways of the State of Arkansas, within or without the corporate limits of any city or village, for the purpose of carrying passengers for hire unless there shall have been filed with the ~~Director~~ **Secretary** of the Department of Finance and Administration a liability contract of insurance, or certificates of insurance, issued to the owner of the vehicle, which shall be substantially in the form of the standard automobile liability insurance policy in customary use, to be approved by the ~~director~~ **secretary**, and issued by an insurance company licensed to do business in the State of Arkansas.

SECTION 4594. Arkansas Code § 27–14–1501(c)(2)(A), concerning the liability insurance prerequisite to licensing, is amended to read as follows:

<< AR ST § 27-14-1501 >>

(2)(A) The bond or collateral shall be in the form approved by the ~~director~~ **secretary** and shall be conditioned for the payment of property damage and personal injuries and shall be in an amount no less than fifty thousand dollars (\$50,000) for all claims for the operator's fleet, and uninsured motorist coverage shall not be required of the operators.

SECTION 4595. Arkansas Code § 27-14-1501(e)(1), concerning the liability insurance prerequisite to licensing, is amended to read as follows:

<< AR ST § 27-14-1501 >>

(e)(1) No policy of insurance may be cancelled by the licensee or by the insurance carrier unless written notice of the cancellation shall have been mailed to the ~~director~~ **secretary**.

SECTION 4596. Arkansas Code § 27-14-1603(d), concerning the cancellation of title for a manufactured home or a mobile home, is amended to read as follows:

<< AR ST § 27-14-1603 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules to administer this section.

SECTION 4597. Arkansas Code § 27-14-1604(e), concerning the issuance of a new title in the event of severance, is amended to read as follows:

<< AR ST § 27-14-1604 >>

(e) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules to implement and administer this section.

SECTION 4598. Arkansas Code § 27-14-1701(d)(1), concerning the operation of vehicles under special plates, is amended to read as follows:

<< AR ST § 27-14-1701 >>

(d)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide the specifications, form, and color of the special temporary preprinted paper tag and any correlating stickers that are to be placed on the preprinted paper tag required under this section.

SECTION 4599. Arkansas Code § 27-14-1703(a)(1), concerning the expiration of special plates, is amended to read as follows:

<< AR ST § 27-14-1703 >>

(a)(1) Every special plate, excluding temporary preprinted paper tags, issued under this subchapter shall expire at 12:00 midnight on December 31 of each year unless the ~~Director~~ **Secretary** of the Department of Finance and Administration provides by rule a staggered method of annual expiration.

SECTION 4600. Arkansas Code § 27-14-1703(b), concerning the expiration of special plates, is amended to read as follows:

<< AR ST § 27-14-1703 >>

(b) In lieu of providing a new special plate upon the expiration of the special plate issued under this subchapter, the ~~director~~ **secretary** may by rule provide for the issuance of permanent special plates that are renewed using an alternate method.

SECTION 4601. The introductory language of Arkansas Code § 27-14-1704(a), concerning dealer's extra license plates, is amended to read as follows:

<< AR ST § 27-14-1704 >>

(a) Each dealer as defined in § 27-14-601(a)(6) shall furnish the ~~Director~~ **Secretary** of the Department of Finance and Administration with a list of each manager, sales manager, and salesperson authorized to operate a motor vehicle to which a dealer's extra license plate issued to the dealer has been or will be attached:

SECTION 4602. Arkansas Code § 27-14-1704(e)(1)(A), concerning dealer's extra license plates, is amended to read as follows:

<< AR ST § 27-14-1704 >>

(e)(1)(A) In addition to any other penalty prescribed by this chapter, the ~~director~~ **secretary** may suspend some or all dealer's extra license plates issued to a dealer if the ~~director~~ **secretary** determines that the dealer or any manager, sales manager, or salesperson of the dealer either misused a dealer's extra license plate or allowed the use of a dealer's extra license plate by a person who is not authorized by this section to use a dealer's extra license plate.

SECTION 4603. The introductory language of Arkansas Code § 27-14-1704(e)(1)(C), concerning dealer's extra license plates, is amended to read as follows:

<< AR ST § 27-14-1704 >>

(C) The ~~director~~ **secretary** shall:

SECTION 4604. Arkansas Code § 27-14-1704(e)(2)(A) and (B), concerning dealer's extra license plates, are amended to read as follows:

<< AR ST § 27-14-1704 >>

(2)(A) Any dealer who desires a hearing on the suspension shall notify the ~~director~~ **secretary** in writing within twenty (20) days after receipt of the notice of suspension.

(B) A hearing officer appointed by the ~~director~~ **secretary** shall schedule a hearing in an office of the Revenue Division of the Department of Finance and Administration in the county of the dealer's principal place of business, unless the ~~director~~ **secretary** and the dealer agree to another location for the hearing or agree that the hearing shall be held by telephone.

SECTION 4605. Arkansas Code § 27-14-1704(e)(3)(A)(ii), concerning dealer's extra license plates, is amended to read as follows:

<< AR ST § 27-14-1704 >>

(ii) The dealer shall serve a copy of the petition on the ~~director~~ **secretary**.

SECTION 4606. Arkansas Code § 27-14-1705(e), concerning temporary preprinted paper buyer's tags, is amended to read as follows:

<< AR ST § 27-14-1705 >>

(e) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide the specifications, form, and color of the temporary preprinted paper buyer's tag.

SECTION 4607. Arkansas Code § 27-14-1705(f)(1)(A), concerning temporary preprinted paper buyer's tags, is amended to read as follows:

<< AR ST § 27-14-1705 >>

(f)(1)(A) The buyer shall be responsible for paying to the ~~director~~ **secretary** a fee to be set by the ~~director~~ **secretary**, which shall not exceed five dollars and fifty cents (\$5.50), for each temporary preprinted paper buyer's tag and any correlating sticker the buyer receives.

SECTION 4608. Arkansas Code § 27-14-1705(f)(3)(A), concerning temporary preprinted paper buyer's tags, is amended to read as follows:

<< AR ST § 27-14-1705 >>

(3)(A) Except as provided in subdivision (f)(3)(B) of this section, all fees collected by the ~~director~~ **secretary** under this section shall be deposited into the State Treasury, and the Treasurer of State shall credit them as general revenues to the General Revenue Fund Account of the State Apportionment Fund.

SECTION 4609. The introductory language of Arkansas Code § 27-14-1705(h)(1)(A), concerning temporary preprinted paper buyer's tags, is amended to read as follows:

<< AR ST § 27-14-1705 >>

(h)(1)(A) In addition to any other penalty prescribed by this section, the ~~director~~ **secretary** may suspend or terminate a dealer's authority to issue temporary preprinted paper buyer's tags if the ~~director~~ **secretary** determines that the dealer, manager, salesperson, or employee of the dealer:

SECTION 4610. Arkansas Code § 27-14-1705(h)(1)(B), concerning temporary preprinted paper buyer's tags, is amended to read as follows:

<< AR ST § 27-14-1705 >>

(B) In addition to any other penalty prescribed by this section, if the ~~director~~ **secretary** determines that the dealer, or a manager, salesperson, or employee of the dealer, has violated this subsection, the ~~director~~ **secretary** may impose a penalty equal to ten dollars (\$10.00) for each inappropriately issued temporary preprinted paper buyer's tag.

SECTION 4611. The introductory language of Arkansas Code § 27-14-1705(h)(2), concerning temporary preprinted paper buyer's tags, is amended to read as follows:

<< AR ST § 27-14-1705 >>

(2) The ~~director~~ **secretary** shall:

SECTION 4612. Arkansas Code § 27-14-1705(h)(5)(A) and (B), concerning temporary preprinted paper buyer's tags, are amended to read as follows:

<< AR ST § 27-14-1705 >>

(5)(A) A dealer who desires a hearing on the imposition of a penalty, or of the suspension or termination of the dealer's authority to issue temporary tags under this section, shall notify the ~~director~~ **secretary** in writing within twenty (20) days after receipt of the notice of imposition of a penalty, or of the suspension or termination.

(B) A hearing officer appointed by the ~~director~~ **secretary** shall schedule a hearing in an office of the Revenue Division of the Department of Finance and Administration in the county of the dealer's principal place of business, unless the ~~director~~ **secretary** and the dealer agree to another location for the hearing or agree that the hearing shall be held by telephone.

SECTION 4613. Arkansas Code § 27-14-1705(h)(6)(B), concerning temporary preprinted paper buyer's tags, is amended to read as follows:

<< AR ST § 27-14-1705 >>

(B) The dealer shall serve a copy of the petition on the ~~director~~ **secretary**.

SECTION 4614. Arkansas Code § 27-14-1706(c)(2), concerning vehicles provided for purposes of demonstration or for repair customers, is amended to read as follows:

<< AR ST § 27-14-1706 >>

(2)(A) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide the specifications, form, and color of the information sheet to be used by dealers under this subsection.

(B) Information sheets retained by the dealer under this subsection are subject to examination by the ~~director~~ **secretary** at any reasonable time.

SECTION 4615. Arkansas Code § 27-14-1706(d)(3), concerning vehicles provided for purposes of demonstration or for repair customers, is amended to read as follows:

<< AR ST § 27-14-1706 >>

(3) The ~~director~~ **secretary** shall design the test drive or loaner information sheet to be used by dealers under this subsection and shall make this information sheet available at all state revenue offices and on the website of the Department of Finance and Administration.

SECTION 4616. Arkansas Code § 27-14-1707 is amended to read as follows:

<< AR ST § 27-14-1707 >>

27-14-1707. Authority to promulgate rules.

In addition to the authority provided in § 27-14-403, the ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate, adopt, and enforce such rules as may be necessary to carry out this subchapter.

SECTION 4617. Arkansas Code § 27-14-1804 is amended to read as follows:

<< AR ST § 27-14-1804 >>

27-14-1804. Nonapplicable if regular plates used.

This subchapter shall not apply to any person, firm, or corporation engaged in towing or driving motor vehicles on the public highways of this state where the motor vehicles display bona fide license or dealer's license plates issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4618. Arkansas Code § 27-14-1805(a), concerning the use of "IN TRANSIT" placards, is amended to read as follows:

<< AR ST § 27-14-1805 >>

(a)(1) Motor vehicles and trailers in the course of delivery from a manufacturer to a dealer, or from one dealer to another, may be operated on the highways without license number plates being attached, if they display, on the rear, a placard issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration, bearing the words "IN TRANSIT", the registration number, the time and date the placard was issued, and the genuine signature of the ~~director~~ **secretary** or his or her agent.

(2) The letters and figures shall be of such size and type to meet the requirements of the ~~director~~ **secretary**.

SECTION 4619. Arkansas Code § 27-14-1805(b)(2), concerning the use of "IN TRANSIT" placards, is amended to read as follows:

<< AR ST § 27-14-1805 >>

(2) The fee shall be collected by the ~~director~~ **secretary** before issuance of the placard.

SECTION 4620. Arkansas Code § 27-14-1806(a)(1), concerning metal transporter plates, is amended to read as follows:

<< AR ST § 27-14-1806 >>

(a)(1) Any person, firm, or corporation that is regularly engaged in the business of driving or towing motor vehicles or trailers as defined in § 27-14-1805, upon the payment of a fee of thirty dollars (\$30.00), may be issued an annual metal transporter plate by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4621. Arkansas Code § 27-14-1808 is amended to read as follows:

<< AR ST § 27-14-1808 >>

27-14-1808. 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 4622. Arkansas Code § 27-14-1904 is amended to read as follows:

<< AR ST § 27-14-1904 >>

27-14-1904. Design of plates.

Manufacturers' master license plates shall be of such form and design as prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4623. Arkansas Code § 27-14-1905 is amended to read as follows:

<< AR ST § 27-14-1905 >>

27-14-1905. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration is authorized to promulgate rules and regulations consistent with the provisions of this subchapter.

SECTION 4624. Arkansas Code § 27-14-2102 is amended to read as follows:

<< AR ST § 27-14-2102 >>

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 4625. Arkansas Code § 27-14-2105 is amended to read as follows:

<< AR ST § 27-14-2105 >>

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 4626. Arkansas Code § 27–14–2307 is amended to read as follows:

<< AR ST § 27–14–2307 >>

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 4627. Arkansas Code § 27–15–2402 is amended to read as follows:

<< AR ST § 27–15–2402 >>

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 4628. Arkansas Code § 27–15–2404 is amended to read as follows:

<< AR ST § 27–15–2404 >>

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 compliance with all state license laws relating to the use and operation of motor vehicles before issuing the special plates under this subchapter in lieu of the regular license plates.

SECTION 4629. Arkansas Code § 27–15–2405(a), concerning lists for public information, is amended to read as follows:

<< AR ST § 27–15–2405 >>

(a) On or before March 1 of each year, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall furnish to the sheriff of each county in the state an alphabetically arranged list of the names, addresses, and amateur station call signs on the license plates of all persons to whom license plates are issued under the provisions of this subchapter.

SECTION 4630. Arkansas Code § 27–15–4001(a), concerning buses converted to or equipped as campers, is amended to read as follows:

<< AR ST § 27–15–4001 >>

(a) Any person in this state who owns a school bus or other bus which has been converted to or equipped as a camper and is used solely as a camper may register it and obtain special motor vehicle license plates for it upon application to the ~~Director~~ **Secretary** of the Department of Finance and Administration and upon the payment of an annual registration fee of thirteen dollars (\$13.00).

SECTION 4631. Arkansas Code § 27-15-4002(b), concerning exemptions for new vehicles loaned by dealers to school districts, is amended to read as follows:

<< AR ST § 27-15-4002 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue, without charge to the school district, the appropriate motor vehicle license plates for the vehicle.

SECTION 4632. Arkansas Code § 27-15-4901 is amended to read as follows:

<< AR ST § 27-15-4901 >>

27-15-4901. In God We Trust license plate authorized.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a special In God We Trust motor vehicle license plate in the manner and subject to the conditions prescribed in this subchapter.

SECTION 4633. The introductory language of Arkansas Code § 27-15-4902(b)(1), concerning the design of the special In God We Trust motor vehicle license plate, is amended to read as follows:

<< AR ST § 27-15-4902 >>

(b)(1) Before the ~~Director~~ **Secretary** of the Department of Finance and Administration creates and issues a special license plate under this subchapter, one (1) of the following must occur:

SECTION 4634. Arkansas Code § 27-15-4908 is amended to read as follows:

<< AR ST § 27-15-4908 >>

27-15-4908. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate reasonable rules and regulations and prescribe forms as the ~~director~~ **secretary** determines to be necessary for effectively and efficiently carrying out the intent and purposes of this subchapter.

SECTION 4635. Arkansas Code § 27-15-5101 is amended to read as follows:

<< AR ST § 27-15-5101 >>

27-15-5101. Arkansas State Golf Association license plate authorized.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide for and issue Arkansas State Golf Association special license plates in the manner and subject to the conditions under this subchapter.

SECTION 4636. Arkansas Code § 27-15-5102(a)(2) and (3), concerning the design of numbered plates for the Arkansas State Golf Association, are amended to read as follows:

<< AR ST § 27-15-5102 >>

(2) The design shall be submitted to the ~~Director~~ **Secretary** of the Department of Finance and Administration for design approval under rules of the ~~director~~ **secretary**.

(3) The association may periodically submit a newly designed license plate for approval and issuance by the ~~director~~ **secretary** with not more than one (1) new license plate design issued per calendar year.

SECTION 4637. Arkansas Code § 27-15-5102(b)(1), concerning the design of numbered plates for the Arkansas State Golf Association, is amended to read as follows:

<< AR ST § 27-15-5102 >>

(b)(1) Upon approval of the design by the ~~director~~ **secretary**, the association shall remit to the Department of Finance and Administration a fee in the amount of six thousand dollars (\$6,000) to cover the cost of the initial order of each newly designed license plate.

SECTION 4638. Arkansas Code § 27-15-5102(c), concerning the design of numbered plates for the Arkansas State Golf Association, is amended to read as follows:

<< AR ST § 27-15-5102 >>

(c) The ~~director~~ **secretary** shall promulgate reasonable rules and regulations and prescribe any forms as the ~~director~~ **secretary** determines to be necessary to carry out the intent and purposes of this subchapter.

SECTION 4639. Arkansas Code § 27-15-5201 is amended to read as follows:

<< AR ST § 27-15-5201 >>

27-15-5201. Arkansas Fallen Firefighters' Memorial special license plate authorized.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall provide for and issue Arkansas Fallen Firefighters' Memorial special license plates for motor vehicles in the manner provided in this subchapter.

SECTION 4640. Arkansas Code § 27-15-5202(a)(2) and (3), concerning the special motor vehicle license plates designed by the Arkansas Fallen Firefighters' Memorial Board, are amended to read as follows:

<< AR ST § 27-15-5202 >>

(2) The design shall be submitted for design approval by the ~~Director~~ **Secretary** of the Department of Finance and Administration under rules and regulations of the ~~director~~ **secretary**.

(3) The board may periodically submit a newly designed license plate for approval and issue by the ~~director~~ **secretary** with not more than one (1) new license plate design issued per calendar year.

SECTION 4641. Arkansas Code § 27-15-5202(b)(1), concerning the special motor vehicle license plates designed by the Arkansas Fallen Firefighters' Memorial Board, is amended to read as follows:

<< AR ST § 27-15-5202 >>

(b)(1) Upon approval of the design by the director **secretary**, the board shall remit to the Department of Finance and Administration a fee of six thousand dollars (\$6,000) to cover the cost of the initial order of each newly designed license plate.

SECTION 4642. Arkansas Code § 27-15-5202(c), concerning the special motor vehicle license plates designed by the Arkansas Fallen Firefighters' Memorial Board, is amended to read as follows:

<< AR ST § 27-15-5202 >>

(c) The director **secretary** shall promulgate reasonable rules and regulations and prescribe any forms as he or she determines to be necessary to carry out the intent and purposes of this subchapter.

SECTION 4643. Arkansas Code § 27-16-401(1), concerning the definition of “commissioner” under the laws concerning the Office of Driver Services, is amended to read as follows:

<< AR ST § 27-16-401 >>

(1) “Commissioner” means the Director **Secretary** of the Department of Finance and Administration acting in his or her capacity as Commissioner of Motor Vehicles of this state;

SECTION 4644. Arkansas Code § 27-16-509(c), concerning reciprocal agreements, is amended to read as follows:

<< AR ST § 27-16-509 >>

(c)(1) The Director **Secretary** of the Department of Finance and Administration may negotiate and consummate a reciprocal agreement as provided under this section.

(2) If the Director **Secretary** of the Department of Finance and Administration enters into a reciprocal agreement under this section, then he or she shall exercise due regard for the advantage and convenience of resident drivers and citizens of the State of Arkansas.

(3) The Director **Secretary** of the Department of Finance and Administration shall only enter into a reciprocal agreement that extends equal or greater privileges and exemptions to Arkansas motor vehicle drivers as compared to the privileges and exemptions provided to the other entity's motor vehicle drivers.

SECTION 4645. Arkansas Code § 27-16-509(d)(1), concerning reciprocal agreements, is amended to read as follows:

<< AR ST § 27-16-509 >>

(d)(1) The Director **Secretary** of the Department of Finance and Administration shall enter into a reciprocal agreement under this section by promulgating rules in compliance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 4646. The introductory language of Arkansas Code § 27-16-509(e)(1)(A), concerning reciprocal agreements, is amended to read as follows:

<< AR ST § 27-16-509 >>

(e)(1)(A) If the ~~Director~~ **Secretary** of the Department of Finance and Administration enters into a reciprocal agreement under this section, then he or she shall submit a report to the following:

SECTION 4647. Arkansas Code § 27-16-604(a)(9), concerning persons not to be licensed, is amended to read as follows:

<< AR ST § 27-16-604 >>

(9) Whose operation of a motor vehicle on the highways the ~~Director~~ **Secretary** of the Department of Finance and Administration has good cause to believe would be inimical to public safety or welfare;

SECTION 4648. Arkansas Code § 27-16-702(a)(2), concerning the application of a minor for an instruction permit, learner's license, or intermediate driver's license, is amended to read as follows:

<< AR ST § 27-16-702 >>

(2) For purposes of this section, duly authorized agents of the ~~Director~~ **Secretary** of the Department of Finance and Administration may administer oaths without charge.

SECTION 4649. Arkansas Code § 27-16-704(b)(6), concerning the examination of applicants, is amended to read as follows:

<< AR ST § 27-16-704 >>

(6) The test of the applicant's eyesight shall be made on an optical testing instrument approved under standards established by the ~~Director~~ **Secretary** of the Department of Finance and Administration and the ~~Department~~ **Division** of Arkansas State Police.

SECTION 4650. Arkansas Code § 27-16-705(a), concerning examiners for the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 27-16-705 >>

(a) An examination as provided for in this subchapter shall be conducted by the ~~Department~~ **Division** of Arkansas State Police or by the duly authorized agents of the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4651. The introductory language of Arkansas Code § 27-16-801(a)(1)(A), concerning licenses, validity periods, contents, fees, and disposition of moneys, is amended to read as follows:

<< AR ST § 27-16-801 >>

(a)(1)(A) In a manner prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration, the Office of Driver Services shall issue:

SECTION 4652. Arkansas Code § 27-16-801(a)(5), concerning licenses, validity periods, contents, fees, and disposition of moneys, is amended to read as follows:

<< AR ST § 27-16-801 >>

(5) At the time of initial issuance or at the time of renewal of a license, the distinguishing number assigned to the licensee for his or her license shall be a nine-digit number assigned to the specific licensee by the ~~director~~ **secretary**.

SECTION 4653. Arkansas Code § 27-16-801(d)(1), concerning licenses, validity periods, contents, fees, and disposition of moneys, is amended to read as follows:

<< AR ST § 27-16-801 >>

(d)(1) Except as provided in subdivision (d)(2) of this section, all license fees collected under subsection (a) of this section shall be cash funds restricted in their use and shall be deposited 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.

SECTION 4654. Arkansas Code § 27-16-801(g)(2), concerning the definition of “eligible inmate”, is amended to read as follows:

<< AR ST § 27-16-801 >>

(2) The fees collected under this subsection shall be remitted to the State Treasury, there to be deposited as special revenues to the credit of the ~~Department~~ **Division** of Arkansas State Police Fund, to be used for the payment of health insurance premiums for uniformed employees of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 4655. Arkansas Code § 27-16-801(h)(1)(A)(i) and (ii), concerning licenses, validity periods, contents, fees, and disposition of moneys, are amended to read as follows:

<< AR ST § 27-16-801 >>

(i) Being an inmate of the ~~Department~~ **Division** of Correction and housed in a facility operated by the ~~Department~~ **Division** of Correction; or

(ii) Being an inmate of the ~~Department~~ **Division** of Community Correction and housed in a detention facility; and

SECTION 4656. Arkansas Code § 27-16-801(h)(1)(B), concerning the definition of “eligible inmate”, is amended to read as follows:

<< AR ST § 27-16-801 >>

(B) “Eligible inmate” means a person who is within one hundred eighty (180) days of release from custody by the ~~Department~~ **Division** of Correction or the ~~Department~~ **Division** of Community Correction.

SECTION 4657. Arkansas Code § 27-16-801(h)(3), concerning licenses, validity periods, contents, fees, and disposition of moneys, is amended to read as follows:

<< AR ST § 27-16-801 >>

(3) The ~~Department~~ **Division** of Correction and the ~~Department~~ **Division** of Community Correction shall identify eligible inmates to apply for a replacement or renewal driver's license or identification card.

SECTION 4658. Arkansas Code § 27-16-811(d), concerning the address confidentiality program and the exception to a disclosing a residence address, is amended to read as follows:

<< AR ST § 27-16-811 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules and forms to administer the address confidentiality program under this section.

SECTION 4659. Arkansas Code § 27-16-901(a)(1)(A), concerning the expiration and renewal of licenses, is amended to read as follows:

<< AR ST § 27-16-901 >>

(a)(1)(A) Except for the intermediate driver's license and the learner's license, every driver's license shall expire at the end of the month in which it was issued eight (8) years from its date of initial issuance unless the ~~Director~~ **Secretary** of the Department of Finance and Administration provides by rule for some other staggered basis of expiration.

SECTION 4660. Arkansas Code § 27-16-901(a)(2)(A), concerning the expiration and renewal of licenses, is amended to read as follows:

<< AR ST § 27-16-901 >>

(2)(A) The ~~director~~ **secretary** may by rule shorten or lengthen the term of any driver's license period, as necessary, to ensure that approximately twenty-five percent (25%) of the total valid licenses are renewable each fiscal year.

SECTION 4661. Arkansas Code § 27-16-901(a)(2)(B)(ii), concerning the expiration and renewal of licenses, is amended to read as follows:

<< AR ST § 27-16-901 >>

(ii) The adjustment of the fee shall be carried out in the manner determined by the ~~director~~ **secretary** by rule.

SECTION 4662. Arkansas Code § 27-16-901(b), concerning the expiration and renewal of licenses, is amended to read as follows:

<< AR ST § 27-16-901 >>

(b) Every driver's license shall be renewable on or before its expiration upon completion of an application, payment of the fees designated in § 27-16-801, and passage of the eyesight test required in § 27-16-704 and shall be renewed without other examination, unless the ~~director~~ **secretary** has reason to believe that the licensee is no longer qualified to receive a license.

SECTION 4663. Arkansas Code § 27-16-902(c), concerning the extension of expiration date of licenses for military members, is amended to read as follows:

<< AR ST § 27-16-902 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules necessary for compliance with this section.

SECTION 4664. Arkansas Code § 27-16-907(e)(3), concerning the suspension or revocation of licenses, is amended to read as follows:

<< AR ST § 27-16-907 >>

(3)(A) A hearing officer appointed by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall schedule a hearing in an office of the Revenue Division of the Department of Finance and Administration designated by the ~~director~~ **secretary** for the hearings.

(B) The hearing shall be in the office in the county of residence of the licensee unless the ~~director~~ **secretary** and licensee agree to another location for the hearing or agree that the hearing shall be held by telephone conference call.

SECTION 4665. Arkansas Code § 27-16-907(g), concerning the suspension or revocation of licenses, is amended to read as follows:

<< AR ST § 27-16-907 >>

(g) The ~~director~~ **secretary** may promulgate rules and regulations for the administration of this section.

SECTION 4666. Arkansas Code § 27-16-909(a)(1), concerning the suspension or revocation of license for the inability to drive, is amended to read as follows:

<< AR ST § 27-16-909 >>

(a)(1) The Office of Driver Services, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may, upon written notice of at least five (5) days to the licensee, require the licensee to submit to an initial evaluation by a hearing officer appointed by the ~~Director~~ **Secretary** of the Department of Finance and Administration in an office of the Revenue Division of the Department of Finance and Administration designated by the ~~director~~ **secretary**.

SECTION 4667. Arkansas Code § 27-16-909(c)(3), concerning the suspension or revocation of a license for the inability to drive, is amended to read as follows:

<< AR ST § 27-16-909 >>

(3)(A) A hearing officer appointed by the ~~director~~ **secretary** shall schedule a hearing in an office of the revenue division designated by the ~~director~~ **secretary** for hearings under this section.

(B) The hearing shall be in the office in the county of residence of the licensee unless the ~~director~~ **secretary** and licensee agree to another location for the hearing or agree that the hearing shall be held by telephone conference call.

SECTION 4668. Arkansas Code § 27-16-909(e), concerning the suspension or revocation of a license for the inability to drive, is amended to read as follows:

<< AR ST § 27-16-909 >>

(e) The ~~director~~ **secretary** may promulgate rules and regulations for the orderly and efficient administration of this section.

SECTION 4669. Arkansas Code § 27-16-913(a)(3), concerning the right of appeal to the court of record, is amended to read as follows:

<< AR ST § 27-16-913 >>

(3) A copy of the petition shall be served upon the ~~Director~~ **Secretary** of the Department of Finance and Administration in accordance with the Arkansas Rules of Civil Procedure.

SECTION 4670. Arkansas Code § 27-16-915(b)(1)(C), concerning suspension for a conviction of a controlled substances offense, is amended to read as follows:

<< AR ST § 27-16-915 >>

(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 4671. Arkansas Code § 27-16-1105(c)(2), concerning the minimum issuance standards for driver's licenses, is amended to read as follows:

<< AR ST § 27-16-1105 >>

(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 4672. 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:

<< AR ST § 27-16-1106 >>

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 4673. Arkansas Code § 27-16-1107(a), concerning the linking of databases, is amended to read as follows:

<< AR ST § 27-16-1107 >>

(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.

SECTION 4674. The introductory language of Arkansas Code § 27-16-1107(b), concerning the linking of databases, is amended to read as follows:

<< AR ST § 27-16-1107 >>

(b) The ~~director~~ **secretary** shall implement and oversee a motor vehicle database that contains at a minimum the following information:

SECTION 4675. Arkansas Code § 27-16-1108 is amended to read as follows:

<< AR ST § 27-16-1108 >>

27-16-1108. Rules.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall promulgate rules to implement and administer this subchapter.

SECTION 4676. Arkansas Code § 27-16-1203(2), concerning the definition of "director" under the Arkansas Voluntary Enhanced Security Driver's License and Identification Card Act, is repealed.

<< AR ST § 27-16-1203 >>

(2) "~~Director~~" means the ~~Director of the Department of Finance and Administration~~;

SECTION 4677. Arkansas Code § 27-16-1204(a), concerning system development under the Arkansas Voluntary Enhanced Security Driver's License and Identification Card Act, is amended to read as follows:

<< AR ST § 27-16-1204 >>

(a) Notwithstanding any other provision of law, the ~~Director~~ **Secretary** of the Department of Finance and Administration may perform any system development necessary to implement the requirements of this subchapter.

SECTION 4678. Arkansas Code § 27-16-1207(a)(11), concerning issuance standards and proof of physical address, is amended to read as follows:

<< AR ST § 27-16-1207 >>

(11) Any other documentation the ~~Director~~ **Secretary** of the Department of Finance and Administration determines to be adequate proof of physical address.

SECTION 4679. Arkansas Code § 27-16-1207(d), concerning issuance standards and proof of physical address, is amended to read as follows:

<< AR ST § 27-16-1207 >>

(d) The ~~director~~ **secretary** may require additional proof of physical address if the ~~director~~ **secretary** questions the validity or authenticity of the proof of physical address submitted by the applicant.

SECTION 4680. The introductory language of Arkansas Code § 27-16-1208, concerning evidence of lawful status, is amended to read as follows:

<< AR ST § 27-16-1208 >>

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall require before issuing a voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card valid documentary evidence that the applicant:

SECTION 4681. Arkansas Code § 27-16-1209(d), concerning the expiration and renewal of a voluntary enhanced security driver's license, is amended to read as follows:

<< AR ST § 27-16-1209 >>

(d) The ~~Director~~ **Secretary** of the Department of Finance and Administration may by rule shorten or lengthen the term of any driver's license or identification card period under this section, as necessary, to ensure that approximately twenty-five percent (25%) of the total valid licenses are renewable each fiscal year.

SECTION 4682. Arkansas Code § 27-16-1211 is amended to read as follows:

<< AR ST § 27-16-1211 >>

27-16-1211. Authority to promulgate rules.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate any necessary rules to carry out this subchapter, subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 4683. The introductory language of Arkansas Code § 27-16-1212, concerning the implementation date for voluntary enhanced identification and security features, is amended to read as follows:

<< AR ST § 27-16-1212 >>

This subchapter shall be effective and shall be implemented only if the ~~Director~~ **Secretary** of the Department of Finance and Administration:

SECTION 4684. Arkansas Code § 27-19-202 is amended to read as follows:

<< AR ST § 27-19-202 >>

27-19-202. Commissioner.

“Commissioner” means the ~~Director~~ **Secretary** of the Department of Finance and Administration acting in his or her capacity as Commissioner of Motor Vehicles of this state.

SECTION 4685. Arkansas Code § 27-19-401 is amended to read as follows:

<< AR ST § 27-19-401 >>

27-19-401. Responsibility.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall administer and enforce the provisions of this chapter.

SECTION 4686. Arkansas Code § 27-19-402 is amended to read as follows:

<< AR ST § 27-19-402 >>

27-19-402. Rules and regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may make rules and regulations necessary for the administration of this chapter.

SECTION 4687. Arkansas Code § 27-19-403 is amended to read as follows:

<< AR ST § 27-19-403 >>

27-19-403. Forms.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall prescribe and provide suitable forms requisite or deemed necessary for the purposes of this chapter.

SECTION 4688. Arkansas Code § 27-19-404(3), concerning the procedure for suspension of a license, is amended to read as follows:

<< AR ST § 27-19-404 >>

(3) A hearing officer appointed by the ~~Director~~ **Secretary** of the Department of Finance and Administration shall schedule a hearing in an office of the Revenue Division of the Department of Finance and Administration designated by the ~~director~~ **secretary** for the hearings. The hearing shall be in the office in the county of residence of the licensee unless the ~~director~~ **secretary** and licensee agree to another location for the hearing or agree that the hearing shall be held by telephone conference call- ;

SECTION 4689. Arkansas Code § 27-19-405 is amended to read as follows:

<< AR ST § 27-19-405 >>

27-19-405. Requests of persons aggrieved.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall receive and consider any pertinent information upon request of persons aggrieved by his or her orders or acts under any of the provisions of this chapter.

SECTION 4690. Arkansas Code § 27–19–408(a) and (b), concerning the court review of actions of the Director of the Department of Finance and Administration, are amended to read as follows:

<< AR ST § 27–19–408 >>

(a) Any order or act of the ~~Director~~ **Secretary** of the Department of Finance and Administration under the provisions of this chapter shall be subject to a de novo petition of review in the circuit court of the district in which any party of interest resides.

(b) The filing of a petition of review shall not operate as an automatic stay of any order or act of the ~~director~~ **secretary**.

SECTION 4691. Arkansas Code § 27–19–408(d), concerning the court review of actions of the Director of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 27–19–408 >>

(d) The circuit judge is vested with the jurisdiction to determine whether the petitioner is entitled to a license or whether the act or order of the ~~director~~ **secretary** should be affirmed, modified, or reversed.

SECTION 4692. Arkansas Code § 27–19–501 is amended to read as follows:

<< AR ST § 27–19–501 >>

27–19–501. Report required.

The driver of a vehicle of a type subject to registration under the motor vehicle laws of this state that is in any manner involved in an accident within this state which accident has resulted in damage to the property of any one (1) person in excess of one thousand dollars (\$1,000) or in bodily injury to or in the death of any person shall report the accident to the Office of Driver Services within thirty (30) days after the accident on an electronic or paper form approved by the ~~Director~~ **Secretary** of the Department of Finance and Administration subject to the exemptions provided in §§ 27–19–509 and 27–19–604.

SECTION 4693. Arkansas Code § 27–19–605(b), concerning the requirements of a bond or policy, is amended to read as follows:

<< AR ST § 27–19–605 >>

(b) No policy or bond shall be effective under § 27–19–604 with respect to any vehicle which was not registered in this state or was a vehicle which was registered elsewhere than in this state at the effective date of the policy or bond or the most recent renewal thereof, unless the insurance company or surety company issuing the policy or bond is authorized to do business in this state, or if the company is not authorized to do business in this state, unless it shall execute a power of attorney authorizing the ~~Director~~ **Secretary** of the Department of Finance and Administration to accept service on its behalf of notice or process in any action upon the policy or bond arising out of an accident.

SECTION 4694. Arkansas Code § 27–19–712(b)(2)(A), concerning a certificate of insurance as proof of financial responsibility, is amended to read as follows:

<< AR ST § 27-19-712 >>

(A) The insurance carrier shall execute a power of attorney authorizing the ~~Director~~ **Secretary** of the Department of Finance and Administration to accept on its behalf service of notice or process in any action arising out of a motor vehicle accident in this state; and

SECTION 4695. Arkansas Code § 27-20-105(a)-(c), concerning the registration and renewal period, are amended to read as follows:

<< AR ST § 27-20-105 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall establish a system for the registration of motorcycles and motor-driven cycles on a monthly series basis to distribute the work of registering motorcycles and motor-driven cycles as uniformly as practicable throughout the twelve (12) months of the calendar year.

(b) When a person applies for the registration of a motorcycle or motor-driven cycle and the issuance of a permanent license plate, the decals issued by the ~~director~~ **secretary** for attachment to the permanent license plate to evidence the registration period shall be decals for the current month in which application is made for registration, regardless of the day of the month on which application is made.

(c) The ~~director~~ **secretary** shall, upon request, assign to any owner of two (2) or more vehicles the same registration period.

SECTION 4696. Arkansas Code § 27-20-202(a), concerning the required registration for all-terrain vehicles, is amended to read as follows:

<< AR ST § 27-20-202 >>

(a) All owners of three-wheeled, four-wheeled, or six-wheeled all-terrain vehicles that are not otherwise required to be registered by law shall register them with the ~~Director~~ **Secretary** of the Department of Finance and Administration within thirty (30) calendar days of acquiring them.

SECTION 4697. Arkansas Code § 27-20-205(a), concerning the certificate of title for an all-terrain vehicle, is amended to read as follows:

<< AR ST § 27-20-205 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a certificate of title to the owner of a three-wheeled, four-wheeled, or six-wheeled all-terrain vehicle that has been registered with the Department of Finance and Administration.

SECTION 4698. Arkansas Code § 27-20-206 is amended to read as follows:

<< AR ST § 27-20-206 >>

27-20-206. Numbered license decal.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall furnish the owners of three-wheeled, four-wheeled, or six-wheeled all-terrain vehicles that have been registered with the Department of Finance and Administration a numbered license decal that shall be attached to the left front side of the vehicle.

SECTION 4699. Arkansas Code § 27-20-208 is amended to read as follows:

<< AR ST § 27-20-208 >>

27-20-208. Regulations.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate such rules and regulations as necessary to implement this subchapter.

SECTION 4700. Arkansas Code § 27-22-107(a)(2)(A), concerning motor vehicle insurance reporting, is amended to read as follows:

<< AR ST § 27-22-107 >>

(2)(A) The ~~Director~~ **Secretary** of the Department of Finance and Administration may choose a vendor to provide an online insurance verification system which will comply with the industry standards as recommended by the Insurance Industry Committee on Motor Vehicle Administration when there are two (2) or more vendors that demonstrate to the department the ability to meet the **Insurance** Industry Committee on Motor Vehicle Administration standard.

SECTION 4701. Arkansas Code § 27-22-107(a)(2)(B), concerning motor vehicle insurance reporting, is amended to read as follows:

<< AR ST § 27-22-107 >>

(B) If the ~~director~~ **secretary** certifies that seventy percent (70%) or more of the motor vehicle insurance policies in effect on a specific date are being accessed according to the industry standards in the online insurance verification system, each insurance company shall provide access to the data through the online insurance verification system.

SECTION 4702. Arkansas Code § 27-22-107(c), concerning motor vehicle insurance reporting, is amended to read as follows:

<< AR ST § 27-22-107 >>

(c) The department may, following procedures set forth in regulations promulgated by the department, assess a penalty against each insurance company of up to two hundred fifty dollars (\$250) for each day the insurance company fails to comply with this section. If an insurance company shows that the failure to comply with this section was inadvertent, accidental, outside of the control of the company, or the result of excusable neglect, the ~~Director~~ **Secretary** of the Department of Finance and Administration may excuse the penalty. The moneys collected from these penalties shall be deposited as a special revenue into the State Central Services Fund, and the net amount shall be credited as a direct revenue to be used by the department to offset the costs of administering this section.

SECTION 4703. Arkansas Code § 27-23-124(a), concerning the Commercial Driver License Fund, is amended to read as follows:

<< AR ST § 27-23-124 >>

(a) There is hereby established on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State, a fund to be known as the "Commercial Driver License Fund" of the Revenue Division of the Department of Finance and Administration. The Commercial Driver License Fund shall consist of special revenues as set out in § 27-23-118, to be used to establish and maintain the Arkansas Commercial Driver License Program, and for other related purposes as required by the ~~Director~~ **Secretary** of the Department of Finance and Administration in carrying out the functions, powers, and duties of the division.

SECTION 4704. Arkansas Code § 27-24-102(1), concerning the purpose and implementation of a special license plate law, is amended to read as follows:

<< AR ST § 27-24-102 >>

(1) Implement a special license plate law that transfers the authority for approving special license plates to the ~~Director~~ **Secretary** of the Department of Finance and Administration;

SECTION 4705. Arkansas Code § 27-24-104(a), concerning the reissuance and regulation of special license plates, is amended to read as follows:

<< AR ST § 27-24-104 >>

(a) Every special license plate continued under this chapter shall be discontinued on April 7, 2007, unless an application that meets the criteria for issuance of the special license plate under the appropriate subchapter governing that type of plate is submitted and approved by the ~~Director~~ **Secretary** of the Department of Finance and Administration at least ninety (90) days prior to April 1, 2007.

SECTION 4706. The introductory language of Arkansas Code § 27-24-104(b), concerning the reissuance and regulation of special license plates, is amended to read as follows:

<< AR ST § 27-24-104 >>

(b) The ~~director~~ **secretary** shall promulgate rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the duties of the Department of Finance and Administration under this chapter, including, but not limited to:

SECTION 4707. Arkansas Code § 27-24-105(a), concerning the design of a special license plate, is amended to read as follows:

<< AR ST § 27-24-105 >>

(a) Unless otherwise provided in this chapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall have the exclusive power to design or approve the design used on a special license plate authorized under this chapter.

SECTION 4708. Arkansas Code § 27-24-107 is amended to read as follows:

<< AR ST § 27-24-107 >>

27-24-107. Appeals.

An appeal from a decision of the ~~Director~~ **Secretary** of the Department of Finance and Administration under this chapter shall be governed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 4709. The introductory language of Arkansas Code § 27-24-204(a), concerning the military and veteran special license plates and decals, is amended to read as follows:

<< AR ST § 27-24-204 >>

(a) The following special license plates or license plates with permanent decals for members and veterans of the United States Armed Forces and similar entities that were in existence or authorized by enactment on or before April 13, 2005, shall continue to be issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration to an eligible applicant:

SECTION 4710. Arkansas Code § 27-24-204(b), concerning the military and veteran special license plates and decals, is amended to read as follows:

<< AR ST § 27-24-204 >>

(b) Beginning January 1, 2014, the ~~director~~ **secretary** shall create and issue a permanent decal for a Vietnam Era Veteran consistent with § 27-24-209 to an eligible applicant.

SECTION 4711. Arkansas Code § 27-24-204(c)(1), concerning the military and veteran special license plates and decals, is amended to read as follows:

<< AR ST § 27-24-204 >>

(c)(1) The Purple Heart Recipient special license plate that existed before April 13, 2005, shall continue to be issued by the ~~director~~ **secretary** to an eligible applicant.

SECTION 4712. The introductory language of Arkansas Code § 27-24-204(d), concerning the military and veteran special license plates and decals, is amended to read as follows:

<< AR ST § 27-24-204 >>

(d) The ~~director~~ **secretary** shall promulgate rules and forms to ensure that an owner of a motor vehicle who is issued a special license plate under this subchapter:

SECTION 4713. Arkansas Code § 27-24-206(a)(2), concerning the fees and limitation regarding special license plates, is amended to read as follows:

<< AR ST § 27-24-206 >>

(2) To defray the cost of the issuance and renewal of the first special license plate under this subchapter, the ~~Director~~ **Secretary** of the Department of Finance and Administration may charge an annual fee for renewal not to exceed one dollar (\$1.00).

SECTION 4714. Arkansas Code § 27-24-213(e)(1)(B), concerning Veterans of Foreign Wars special license plates, is amended to read as follows:

<< AR ST § 27-24-213 >>

(B) An annual fee not to exceed one dollar (\$1.00) that the ~~Director~~ **Secretary** of the Department of Finance and Administration may charge for the issuance and renewal of the first special license plate; and

SECTION 4715. Arkansas Code § 27-24-401 is amended to read as follows:

<< AR ST § 27-24-401 >>

27-24-401. Purpose.

The purpose of this subchapter is to continue the State Highway Commission's exemption from the requirement to display motor vehicle license plates issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration and to transfer the authority to the commission to determine by minute order whether additional metal plates should be issued.

SECTION 4716. Arkansas Code § 27-24-501(c), concerning a federal government vehicle exemption, is amended to read as follows:

<< AR ST § 27-24-501 >>

(c) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall approve the design and form of a special license plate used under this section.

SECTION 4717. Arkansas Code § 27-24-603 is amended to read as follows:

<< AR ST § 27-24-603 >>

27-24-603. Existing special license plates.

The miscellaneous nominal fee special license plates with the specific eligibility criteria that were in existence before April 13, 2005, and that are contained in this subchapter shall continue to be issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4718. The introductory language of Arkansas Code § 27-24-604, concerning additional special license plates, is amended to read as follows:

<< AR ST § 27-24-604 >>

The ~~Director~~ **Secretary** of the Department of Finance and Administration may create and issue additional special license plates under this subchapter if:

SECTION 4719. Arkansas Code § 27-24-604(2), concerning additional special license plates, is amended to read as follows:

<< AR ST § 27-24-604 >>

(2) The creation and issuance of the special license plate will have a minimal annual fiscal and budgetary impact as determined by the ~~director~~ **secretary**; and

SECTION 4720. Arkansas Code § 27-24-606(a)(1), concerning religious organizations, is amended to read as follows:

<< AR ST § 27-24-606 >>

(a)(1) The pastor, minister, priest, rabbi, or other person in charge of a religious organization and the chair of the governing body of the religious organization may apply to the ~~Director~~ **Secretary** of the Department of Finance and Administration for the issuance of a church bus special license plate to be used exclusively on church buses owned and operated by the religious organization.

SECTION 4721. Arkansas Code § 27-24-607 is amended to read as follows:

<< AR ST § 27-24-607 >>

27-24-607. Youth groups.

(a) A civic club, person, or entity that furnishes to a youth group a motor vehicle that is used exclusively for youth group purposes may apply to the ~~Director~~ **Secretary** of the Department of Finance and Administration for the issuance of a youth group special license plate to be used exclusively on motor vehicles that are operated for the purposes of the youth group.

(b) A youth group that owns and operates a motor vehicle that is used exclusively for youth group purposes may apply to the ~~director~~ **secretary** for the issuance of a youth group special license plate to be used exclusively on motor vehicles that are owned by the youth group and operated for the purposes of the youth group.

SECTION 4722. Arkansas Code § 27-24-608 is amended to read as follows:

<< AR ST § 27-24-608 >>

27-24-608. 4-H clubs.

(a) A civic club, person, or entity that furnishes to a 4-H club a motor vehicle that is used exclusively for 4-H club purposes may apply to the ~~Director~~ **Secretary** of the Department of Finance and Administration for the issuance of a 4-H club special license plate to be used exclusively on motor vehicles that are operated for the purposes of the 4-H club.

(b) A 4-H club that owns and operates a motor vehicle that is used exclusively for 4-H club purposes may apply to the ~~director~~ **secretary** for the issuance of a 4-H club special license plate to be used exclusively on motor vehicles that are owned by the 4-H club and operated for the purposes of the 4-H club.

SECTION 4723. Arkansas Code § 27-24-609(a), concerning motor vehicles used exclusively by volunteer rescue squads, is amended to read as follows:

<< AR ST § 27-24-609 >>

(a) A person or entity that owns a motor vehicle that is used exclusively by volunteer rescue squads may apply to the ~~Director~~ **Secretary** of the Department of Finance and Administration for the issuance of a volunteer rescue squad special license plate to be used exclusively on motor vehicles that are operated for the purposes of the volunteer rescue squad.

SECTION 4724. Arkansas Code § 27-24-610 is amended to read as follows:

<< AR ST § 27-24-610 >>

27-24-610. Boy Scouts of America.

A civic club, person, or entity that furnishes a bus or truck for exclusive use for Boy Scouts of America purposes may apply to the ~~Director~~ **Secretary** of the Department of Finance and Administration for the issuance of a motor vehicle special license plate to be used exclusively on motor vehicles that are operated for the purposes of the scouts.

SECTION 4725. Arkansas Code § 27-24-612 is amended to read as follows:

<< AR ST § 27-24-612 >>

27-24-612. Orphanages.

(a) The head of an orphanage in the State of Arkansas may apply to the ~~Director~~ **Secretary** of the Department of Finance and Administration for the issuance of a motor vehicle special license plate to be used exclusively on motor vehicles that are operated for the purposes of the orphanage.

(b) The application shall include an affidavit on a form prescribed by the ~~director~~ **secretary** that is signed by the applicant and which states that the motor vehicle to which the special license plate shall be attached is owned or exclusively leased by the orphanage and used exclusively for functions related to the orphanage.

SECTION 4726. Arkansas Code § 27-24-702 is amended to read as follows:

<< AR ST § 27-24-702 >>

27-24-702. Special license plates.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall furnish each member of the General Assembly a special license plate for his or her personal motor vehicle as provided in this subchapter.

SECTION 4727. Arkansas Code § 27-24-703(a)(1), concerning license plates for members of the Senate, is amended to read as follows:

<< AR ST § 27-24-703 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall each year cause to be prepared thirty-nine (39) special license plates for members and selected staff of the Senate and deliver them to the Secretary of the Senate for distribution.

SECTION 4728. Arkansas Code § 27-24-703(b), concerning license plates for members of the Senate, is amended to read as follows:

<< AR ST § 27-24-703 >>

(b) Upon each of the special license plates there shall appear the word “Senator” in addition to other identification information as the ~~director~~ **Secretary of the Department of Finance and Administration** with the approval of the Senate Efficiency Committee and subject to the approval of the Senate.

SECTION 4729. Arkansas Code § 27–24–703(c)(2), concerning license plates for members of the Senate, is amended to read as follows:

<< AR ST § 27–24–703 >>

(2) On or before January 15 of each odd-numbered year, the secretary **Secretary of the Senate** as directed by the Senate Efficiency Committee shall furnish the ~~director~~ **Secretary of the Department of Finance and Administration** with a list of the names of members of the Senate and shall designate the special license plate number that shall be reserved for each member of the Senate.

SECTION 4730. Arkansas Code § 27–24–703(d), concerning license plates for members of the Senate, is amended to read as follows:

<< AR ST § 27–24–703 >>

(d) A member of the Senate who desires to obtain special license plates may obtain them by applying to the ~~director~~ **Secretary of the Department of Finance and Administration** upon forms to be provided by him or her and upon the payment of all taxes and fees that may be due.

SECTION 4731. Arkansas Code § 27–24–704(a)(1), concerning license plates for members of the House of Representatives, is amended to read as follows:

<< AR ST § 27–24–704 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall each calendar year cause to be prepared two (2) sets as deemed necessary by the House Management Committee of one hundred seven (107) special license plates for members of the House of Representatives and selected staff.

SECTION 4732. Arkansas Code § 27–24–704(a)(3), concerning license plates for members of the House of Representatives, is amended to read as follows:

<< AR ST § 27–24–704 >>

(3) Upon receipt of the plates, the ~~director~~ **secretary** shall deliver them to the Speaker of the House of Representatives for issuance.

SECTION 4733. The introductory language of Arkansas Code § 27–24–704(c), concerning license plates for members of the House of Representatives, is amended to read as follows:

<< AR ST § 27–24–704 >>

(c) On or before January 15 of each year, the Speaker of the House of Representatives shall furnish the ~~director~~ **secretary** with a list of names of members of the House of Representatives designating:

SECTION 4734. Arkansas Code § 27-24-802 is amended to read as follows:

<< AR ST § 27-24-802 >>

27-24-802. Special license plates authorized.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall furnish each constitutional officer a Constitutional Officer special license plate for his or her personal motor vehicles under this subchapter.

SECTION 4735. Arkansas Code § 27-24-803(a)(1), concerning the Constitutional Officer special license plate, is amended to read as follows:

<< AR ST § 27-24-803 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall each year cause to be prepared seven (7) special license plates for the constitutional officers.

SECTION 4736. Arkansas Code § 27-24-803(b)(1), concerning the Constitutional Officer special license plate, is amended to read as follows:

<< AR ST § 27-24-803 >>

(b)(1) Upon each of the special license plates there shall appear the words "Constitutional Officer" in addition to the other identifying information as the ~~director~~ **Secretary of the Department of Finance and Administration** shall determine.

SECTION 4737. Arkansas Code § 27-24-803(c)(2), concerning the Constitutional Officer special license plate, is amended to read as follows:

<< AR ST § 27-24-803 >>

(2) On or before January 15 of each odd-numbered year, the Governor shall furnish the ~~director~~ **Secretary of the Department of Finance and Administration** with a list of the names of the constitutional officers, and each other officer shall furnish the Governor with the name of any other person who may display the special license plate.

SECTION 4738. Arkansas Code § 27-24-803(d), concerning the Constitutional Officer special license plate, is amended to read as follows:

<< AR ST § 27-24-803 >>

(d) A constitutional officer who desires to obtain special license plates may obtain them by applying to the ~~director~~ **Secretary of the Department of Finance and Administration** upon forms to be provided by the ~~director~~ **Secretary of the Department of Finance and Administration** and by paying the taxes and fees that may be due.

SECTION 4739. Arkansas Code § 27-24-902(b), concerning the continuation of existing special license plates for Arkansas State Game and Fish Commission vehicles, is amended to read as follows:

<< AR ST § 27-24-902 >>

(b) The special license plates to be issued to the commission and displayed on its vehicles shall be designed by the commission with the approval of the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4740. Arkansas Code § 27-24-903(a), concerning existing special license plates, is amended to read as follows:

<< AR ST § 27-24-903 >>

(a) Except as provided in subsection (b) of this section, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall continue the Arkansas State Game and Fish Commission special license plates that existed before April 13, 2005.

SECTION 4741. Arkansas Code § 27-24-903(b)(2), concerning existing special license plates, is amended to read as follows:

<< AR ST § 27-24-903 >>

(2) To request a discontinuance of one (1) or more special license plates under this subchapter, the commission shall present a resolution to the ~~director~~ **secretary** stating which plates the department is to discontinue.

SECTION 4742. Arkansas Code § 27-24-904(a), concerning additional special license plate requests from the Arkansas State Game and Fish Commission, is amended to read as follows:

<< AR ST § 27-24-904 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall accept requests from the Arkansas State Game and Fish Commission to create and issue additional special license plates under this subchapter.

(2) The commission shall submit with the request for an additional special license plate a proposed design for the approval of the ~~director~~ **secretary**.

SECTION 4743. The introductory language of Arkansas Code § 27-24-904(b), concerning additional special license plate requests from the Arkansas State Game and Fish Commission, is amended to read as follows:

<< AR ST § 27-24-904 >>

(b) When considering a request from the commission for an additional special license plate, the ~~director~~ **secretary** shall consider the following factors:

SECTION 4744. The introductory language of Arkansas Code § 27-24-904(c)(1), concerning additional special license plate requests from the Arkansas State Game and Fish Commission, is amended to read as follows:

<< AR ST § 27-24-904 >>

(c)(1) If the request is approved, the ~~director~~ **secretary** shall determine:

SECTION 4745. Arkansas Code § 27-24-906(2)(B), concerning license plate options, is amended to read as follows:

<< AR ST § 27-24-906 >>

(B) However, the use of letters and numbers on a personalized prestige license plate shall be limited to the rules of the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4746. Arkansas Code § 27-24-1003(a), concerning existing special license plates, is amended to read as follows:

<< AR ST § 27-24-1003 >>

(a) Except as provided in subsection (b) of this section, the ~~Director~~ **Secretary** of the Department of Finance and Administration shall continue the collegiate special license plates that existed before April 13, 2005.

SECTION 4747. Arkansas Code § 27-24-1003(b)(2), concerning existing special license plates, is amended to read as follows:

<< AR ST § 27-24-1003 >>

(2) To request a discontinuance of a special license plate issued under this subchapter, the board of trustees of the college or university shall present a resolution to the ~~director~~ **secretary** requesting the department to discontinue the college's or university's special license plate.

SECTION 4748. Arkansas Code § 27-24-1004 is amended to read as follows:

<< AR ST § 27-24-1004 >>

27-24-1004. Additional special license plates.

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall accept requests from the board of trustees of a college or university to create and issue a special license plate under this subchapter for the college or university.

(2) The board of trustees shall submit with the request for a special license plate a proposed design for the approval of the ~~director~~ **secretary**.

(b) The ~~director~~ **secretary** shall approve one (1) design for a special license plate for each college or university that requests a special license plate.

(c) The ~~director~~ **secretary** shall determine:

(1) The fee for the cost of initial orders of new designs for special license plates which shall be based on the cost of initial orders of new designs for special license plates;

(2) The number of applications that must be received to cover the cost of the initial orders of new designs for special license plates; or

(3) The combination of subdivisions (c)(1) and (2) of this section that must be received to cover the cost of the initial orders of the new designs for special license plates.

(d) The ~~director~~ **secretary** shall issue additional special license plates as provided under this subchapter.

SECTION 4749. Arkansas Code § 27–24–1007(2)(B), concerning license plate options, is amended to read as follows:

<< AR ST § 27–24–1007 >>

(B) However, the use of letters and numbers on a personalized prestige license plate shall be limited to the rules of the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4750. Arkansas Code § 27–24–1010(a), concerning the Arkansas School for the Deaf special license plate, is amended to read as follows:

<< AR ST § 27–24–1010 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a special license plate for the Arkansas School for the Deaf in the manner and subject to the conditions provided under this subchapter.

SECTION 4751. The introductory language of Arkansas Code § 27–24–1010(c), concerning the Arkansas School for the Deaf special license plate, is amended to read as follows:

<< AR ST § 27–24–1010 >>

(c) The ~~director~~ **secretary** shall determine the amount of the cost for the issuance of the special license plate under this section as follows:

SECTION 4752. Arkansas Code § 27–24–1103 is amended to read as follows:

<< AR ST § 27–24–1103 >>

27–24–1103. Existing special license plate.

The special license plate for the Division of Agriculture of the University of Arkansas that was in existence before April 13, 2005, shall continue to be issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4753. Arkansas Code § 27–24–1104 is amended to read as follows:

<< AR ST § 27–24–1104 >>

27–24–1104. Additional special license plates.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall accept requests for a special license plate for the agriculture division, department, or program of a college or university under this subchapter.

SECTION 4754. Arkansas Code § 27–24–1105(a) and (b), concerning the design and approval procedure for a special license plate, are amended to read as follows:

<< AR ST § 27–24–1105 >>

(a) The board of trustees of a college or university shall submit with its request for a special license plate for its agriculture program a proposed design for the approval of the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) The ~~director~~ **secretary** shall approve one (1) design for an agriculture-related special license plate for each college or university that requests or currently has a special license plate.

SECTION 4755. The introductory language of Arkansas Code § 27–24–1105(c)(1), concerning the design and approval procedure for a special license plate, is amended to read as follows:

<< AR ST § 27–24–1105 >>

(c)(1) If the ~~director~~ **secretary** approves the request, the ~~director~~ **secretary** shall determine:

SECTION 4756. Arkansas Code § 27–24–1105(d)(1), concerning the design and approval procedure for a special license plate, is amended to read as follows:

<< AR ST § 27–24–1105 >>

(d)(1) A college or university may submit a newly designed special license plate for approval and issuance by the ~~director~~ **secretary** not more than one (1) time in each period of five (5) years under this subchapter.

SECTION 4757. The introductory language of Arkansas Code § 27–24–1105(d)(2), concerning the design and approval procedure for a special license plate, is amended to read as follows:

<< AR ST § 27–24–1105 >>

(2) If the ~~director~~ **secretary** approves a request, then the ~~director~~ **secretary** shall determine:

SECTION 4758. Arkansas Code § 27–24–1204 is amended to read as follows:

<< AR ST § 27–24–1204 >>

27–24–1204. Additional special license plates.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall accept requests for a special license plate for an African–American fraternity or sorority that exists at a college or university in the State of Arkansas under this subchapter.

SECTION 4759. Arkansas Code § 27–24–1205(a) and (b), concerning the design and approval procedure for a special license plate that commemorates an African–American fraternity or sorority, are amended to read as follows:

<< AR ST § 27–24–1205 >>

(a) The design for a special license plate issued under this subchapter that commemorates an African–American fraternity or sorority shall be designed by the African–American fraternity or sorority and shall be submitted for the approval of the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(b) The ~~director~~ **secretary** shall approve one (1) design for each participating African–American fraternity or sorority.

SECTION 4760. The introductory language of Arkansas Code § 27-24-1205(c)(1), concerning the design and approval procedure for a special license plate that commemorates an African-American fraternity or sorority, is amended to read as follows:

<< AR ST § 27-24-1205 >>

(c)(1) If the ~~director~~ **secretary** approves the design, the ~~director~~ **secretary** shall determine:

SECTION 4761. Arkansas Code § 27-24-1205(d), concerning the design and approval procedure for a special license plate that commemorates an African-American fraternity or sorority, is amended to read as follows:

<< AR ST § 27-24-1205 >>

(d) The ~~director~~ **secretary** shall promulgate reasonable rules and regulations and prescribe the forms necessary for effectively carrying out the intent and purposes of this subchapter.

SECTION 4762. Arkansas Code § 27-24-1206(b)(2), concerning the issuance, renewal, and replacement of a special license plate, is amended to read as follows:

<< AR ST § 27-24-1206 >>

(2) A fee not to exceed twenty-five dollars (\$25.00) to be determined by the ~~Director~~ **Secretary** of the Department of Finance and Administration to cover the design-use contribution by the African-American fraternity or sorority or for fund-raising purposes; and

SECTION 4763. Arkansas Code § 27-24-1307(a), concerning additional public service special license plates with decals, is amended to read as follows:

<< AR ST § 27-24-1307 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall accept requests from organizations that represent public service employees, retired public service employees, or retired military service members to create and issue a special license plate decal under this subchapter.

SECTION 4764. The introductory language of Arkansas Code § 27-24-1307(c), concerning additional public service special license plates with decals, is amended to read as follows:

<< AR ST § 27-24-1307 >>

(c) If the request is approved, the ~~director~~ **secretary** shall determine:

SECTION 4765. Arkansas Code § 27-24-1307(d)(1), concerning additional public service special license plates with decals, is amended to read as follows:

<< AR ST § 27-24-1307 >>

(d)(1) If the ~~director~~ **secretary** approves a request for an additional special license plate decal under this section, then a person who establishes with adequate proof that he or she is a member or retiree of the public service profession or military branch may apply for and annually renew a special license plate decal.

SECTION 4766. The introductory language of Arkansas Code § 27-24-1402(a), concerning existing special license plates, is amended to read as follows:

<< AR ST § 27-24-1402 >>

(a) The following special license plates that represent various special interests and that were in existence or authorized by law on or before April 13, 2005, shall continue to be issued by the ~~Director~~ **Secretary** of the Department of Finance and Administration to a motor vehicle owner who is otherwise eligible to license a motor vehicle in this state and who pays the additional fees for the special license plate unless other eligibility requirements are specifically stated in this subchapter:

SECTION 4767. Arkansas Code § 27-24-1402(c)(1), concerning existing special license plates, is amended to read as follows:

<< AR ST § 27-24-1402 >>

(c)(1) Within thirty (30) days after April 13, 2005, the ~~director~~ **secretary** shall notify the organizations listed in subsection (b) of this section that received the funds or were authorized to use the funds from a design-use contribution fee for a special license plate that is continued under this chapter and that was in effect before April 13, 2005, and the State Highway Commission of a change in the law regarding special license plates.

SECTION 4768. The introductory language of Arkansas Code § 27-24-1402(c)(2)(A), concerning existing special license plates, is amended to read as follows:

<< AR ST § 27-24-1402 >>

(2)(A) The organization shall submit to the ~~director~~ **secretary** an application that includes the following:

SECTION 4769. Arkansas Code § 27-24-1402(c)(2)(B)(ii), concerning existing special license plates, is amended to read as follows:

<< AR ST § 27-24-1402 >>

(ii) If the organization fails to comply with this subdivision (c)(2)(B) within one hundred twenty (120) days after April 13, 2005, then the ~~director~~ **secretary** shall notify the organization that proceeds from the special license plate design-use contribution fee will no longer be remitted to the organization or the organization will no longer be able to use the proceeds until the organization complies with this subdivision (c)(2)(B).

SECTION 4770. The introductory language of Arkansas Code § 27-24-1402(d), concerning existing special license plates, is amended to read as follows:

<< AR ST § 27-24-1402 >>

(d) Every special license plate continued under this subchapter shall be discontinued on April 7, 2007, unless an application is submitted to and approved by the ~~director~~ **secretary** ninety (90) days prior to April 1, 2007, that establishes the organization's compliance with the following conditions:

SECTION 4771. Arkansas Code § 27-24-1404(a), concerning the application process for additional special interest license plate decals, is amended to read as follows:

<< AR ST § 27-24-1404 >>

(a) A special interest organization may apply to the ~~Director~~ **Secretary** of the Department of Finance and Administration for the creation and issuance of a special license plate that bears a decal for the special interest group under this section beginning on July 1, 2006, and ending on November 1, 2006, and on the same dates each year thereafter.

SECTION 4772. Arkansas Code § 27-24-1404(b)(2), concerning the application process for additional special interest license plate decals, is amended to read as follows:

<< AR ST § 27-24-1404 >>

(2) The ~~director~~ **secretary** shall either approve or deny each application submitted during the fiscal year by July 1 of the following fiscal year.

SECTION 4773. The introductory language of Arkansas Code § 27-24-1404(c)(1)(A), concerning the application process for additional special interest license plate decals, is amended to read as follows:

<< AR ST § 27-24-1404 >>

(c)(1)(A) If the request is approved, the ~~director~~ **secretary** shall determine:

SECTION 4774. The introductory language of Arkansas Code § 27-24-1404(c)(2), concerning the application process for additional special interest license plate decals, is amended to read as follows:

<< AR ST § 27-24-1404 >>

(2) If the ~~director~~ **secretary** denies the application, then:

SECTION 4775. Arkansas Code § 27-24-1404(c)(2)(A), concerning the application process for additional special interest license plate decals, is amended to read as follows:

<< AR ST § 27-24-1404 >>

(A) The ~~director~~ **secretary** shall give the applicant written notice of the reasons for the denial; and

SECTION 4776. Arkansas Code § 27-24-1406(b)(2), concerning license plate options, is amended to read as follows:

<< AR ST § 27-24-1406 >>

(2) The use of letters and numbers on a personalized prestige license plate under this section shall be limited by the rules of the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4777. Arkansas Code § 27-24-1407(a), concerning the annual report submitted to the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 27-24-1407 >>

(a) A special interest organization that is the sponsor of a special license plate or a special license plate that bears a decal under this subchapter shall prepare and submit an annual accounting report to the ~~Director~~ **Secretary** of the Department of Finance and Administration by December 1 of each calendar year.

SECTION 4778. The introductory language of Arkansas Code § 27-24-1407(c), concerning the annual report submitted to the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 27-24-1407 >>

(c) If the special interest organization fails to comply with this section, then the ~~director~~ **secretary** may:

SECTION 4779. Arkansas Code § 27-24-1409(a)(1), concerning the Support Animal Rescue and Shelters special license plate decal, is amended to read as follows:

<< AR ST § 27-24-1409 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a special license plate that bears a decal that states "Support Animal Rescue and Shelters" in the manner and subject to the conditions provided under this subchapter.

SECTION 4780. Arkansas Code § 27-24-1411(a), concerning the Little Rock Air Force Base, is amended to read as follows:

<< AR ST § 27-24-1411 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a special license plate for the Little Rock Air Force Base in the manner and subject to the conditions provided for under this subchapter.

SECTION 4781. The introductory language of Arkansas Code § 27-24-1411(c), concerning the Little Rock Air Force Base, is amended to read as follows:

<< AR ST § 27-24-1411 >>

(c) The ~~director~~ **secretary** shall determine the cost for the issuance of the special license plate under this section as follows:

SECTION 4782. Arkansas Code § 27-24-1412(a), concerning the special license plate for the support of the Court Appointed Special Advocates program, is amended to read as follows:

<< AR ST § 27-24-1412 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a special license plate for support of the Arkansas Court Appointed Special Advocates program in the manner and subject to the conditions provided for under this subchapter.

SECTION 4783. Arkansas Code § 27-24-1412(b)(1)(B), concerning the special license plate for the support of the Court Appointed Special Advocates program, is amended to read as follows:

<< AR ST § 27-24-1412 >>

(B) The design shall be submitted for design approval by the ~~director~~ **secretary** under rules promulgated by the ~~director~~ **secretary**; and

SECTION 4784. The introductory language of Arkansas Code § 27-24-1412(c), concerning the special license plate for the support of the Court Appointed Special Advocates program, is amended to read as follows:

<< AR ST § 27-24-1412 >>

(c) The ~~director~~ **secretary** shall determine the amount of the costs for the issuance of the special license plate under this section as follows:

SECTION 4785. Arkansas Code § 27-24-1414(a), concerning a special license plate for the Arkansas Sheriffs' Association, is amended to read as follows:

<< AR ST § 27-24-1414 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a special license plate for the Arkansas Sheriffs' Association in the manner and subject to the conditions provided for under this subchapter.

SECTION 4786. Arkansas Code § 27-24-1414(b)(1)(B), concerning a special license plate for the Arkansas Sheriffs' Association, is amended to read as follows:

<< AR ST § 27-24-1414 >>

(B) The design shall be submitted for design approval by the ~~director~~ **secretary** under rules promulgated by the ~~director~~ **secretary**; and

SECTION 4787. Arkansas Code § 27-24-1415(a), concerning a children's cancer research motor vehicle special license plate, is amended to read as follows:

<< AR ST § 27-24-1415 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall create and issue a children's cancer research motor vehicle special license plate in the manner and subject to the conditions provided for under this subchapter.

SECTION 4788. Arkansas Code § 27-24-1415(b)(1)(B), concerning a children's cancer research motor vehicle special license plate, is amended to read as follows:

<< AR ST § 27-24-1415 >>

(B) The design shall be submitted for design approval by the ~~director~~ **secretary** under rules promulgated by the ~~director~~ **secretary**; and

SECTION 4789. 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:

<< AR ST § 27-24-1416 >>

(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 4790. 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:

<< AR ST § 27-24-1416 >>

(B) The design shall be submitted for design approval by the ~~director~~ **secretary** under rules promulgated by the ~~director~~ **secretary**; and

SECTION 4791. Arkansas Code § 27-24-1419(a), concerning the Arkansas Tennis Association license plate, is amended to read as follows:

<< AR ST § 27-24-1419 >>

(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 4792. Arkansas Code § 27-24-1419(b)(1)(B), concerning the Arkansas Tennis Association license plate, is amended to read as follows:

<< AR ST § 27-24-1419 >>

(B) The design shall be submitted for design approval by the ~~director~~ **secretary** under rules promulgated by the ~~director~~ **secretary**; and

SECTION 4793. The introductory language of Arkansas Code § 27-24-1419(c), concerning the Arkansas Tennis Association license plate, is amended to read as follows:

<< AR ST § 27-24-1419 >>

(c) The ~~director~~ **secretary** shall determine the costs for the issuance of the special license plate under this section as follows:

SECTION 4794. 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:

<< AR ST § 27-24-1420 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a special license plate for the Arkansas State Lodge Fraternal Order of Police in the manner and subject to the conditions provided for under this subchapter.

SECTION 4795. Arkansas Code § 27-24-1420(b)(1)(B), concerning a special license plate for the Arkansas State Lodge Fraternal Order of Police, is amended to read as follows:

<< AR ST § 27-24-1420 >>

(B) The design shall be submitted for design approval by the ~~director~~ **secretary** under rules promulgated by the ~~director~~ **secretary**; and

SECTION 4796. Arkansas Code § 27-24-1422(a)(1), concerning a special license plate in honor of Dr. Martin Luther King, Jr., is amended to read as follows:

<< AR ST § 27-24-1422 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a special license plate in honor of Dr. Martin Luther King, Jr. in the manner and subject to the conditions provided for under this subchapter.

SECTION 4797. Arkansas Code § 27-24-1422(b)(1)(B), concerning a special license plate in honor of Dr. Martin Luther King, Jr., is amended to read as follows:

<< AR ST § 27-24-1422 >>

(B) The design shall be submitted for design approval by the ~~director~~ **secretary** under rules promulgated by the ~~director~~ **secretary**; and

SECTION 4798. Arkansas Code § 27-24-1423(a), concerning an Autism Awareness motor vehicle special license plate, is amended to read as follows:

<< AR ST § 27-24-1423 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall create and issue an Autism Awareness motor vehicle special license plate in the manner and subject to the conditions provided for under this subchapter.

SECTION 4799. Arkansas Code § 27-24-1424(a), concerning the hospice and palliative care motor vehicle special license plate, is amended to read as follows:

<< AR ST § 27-24-1424 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a special motor vehicle license plate for support of hospice and palliative care subject to the conditions provided for under this subchapter.

SECTION 4800. Arkansas Code § 27-24-1424(b)(1)(B), concerning the hospice and palliative care motor vehicle special license plate, is amended to read as follows:

<< AR ST § 27-24-1424 >>

(B) The design shall be submitted for design approval by the ~~director~~ **secretary** under rules promulgated by the ~~director~~ **secretary**; and

SECTION 4801. Arkansas Code § 27-24-1426(a), concerning the Quail Forever special license plate, is amended to read as follows:

<< AR ST § 27-24-1426 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall create and issue a Quail Forever special license plate in the manner and subject to the conditions provided for under this subchapter.

SECTION 4802. Arkansas Code § 27-24-1427(a), concerning the Little Rock Rangers Soccer Club special license plate, is amended to read as follows:

<< AR ST § 27-24-1427 >>

(a) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall create and issue a Little Rock Rangers Soccer Club special license plate in the manner and subject to the conditions provided for under this subchapter.

SECTION 4803. Arkansas Code § 27-24-1602(a) and (b), concerning special license plates and requests from the Department of Parks and Tourism, are amended to read as follows:

<< AR ST § 27-24-1602 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall accept requests from the Department of Parks, **Heritage**, and Tourism to create and issue special license plates under this subchapter.

(2) The Department of Parks, **Heritage**, and Tourism shall submit with a request for a special license plate a proposed design for the approval of the ~~director~~ **secretary**.

(b) When considering a request from the Department of Parks, **Heritage**, and Tourism for a special license plate, the ~~director~~ **secretary** shall consider the following factors:

- (1) The administrative cost to the Department of Finance and Administration for issuance of a Department of Parks, **Heritage**, and Tourism special license plate; and
- (2) The estimated demand for the special license plate requested by the Department of Parks, **Heritage**, and Tourism.

SECTION 4804. The introductory language of Arkansas Code § 27–24–1602(c)(1), concerning special license plates and requests from the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 27–24–1602 >>

(c)(1) If a request submitted under subsection (a) of this section is approved, the ~~director~~ **secretary** shall determine:

SECTION 4805. Arkansas Code § 27–24–1701 is amended to read as follows:

<< AR ST § 27–24–1701 >>

27–24–1701. Authorization.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall issue a special license plate for conservation districts in the manner and subject to the conditions provided under this subchapter.

SECTION 4806. The introductory language of Arkansas Code § 27–24–1702(b), concerning special motor vehicle license plates for conservation districts, is amended to read as follows:

<< AR ST § 27–24–1702 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall determine the amount of the costs for the issuance of the special license plate under this section as follows:

SECTION 4807. Arkansas Code § 27–24–1704 is amended to read as follows:

<< AR ST § 27–24–1704 >>

27–24–1704. Rules.

The ~~Director~~ **Secretary** of the Department of Finance and Administration may promulgate rules for the administration of this subchapter.

SECTION 4808. Arkansas Code § 27–50–201 is amended to read as follows:

<< AR ST § 27–50–201 >>

27–50–201. Provisions deemed cumulative.

This subchapter shall be cumulative to the laws in force relating to the functions and duties imposed upon the Department of Arkansas State Police **and its successor entities** under the provisions of Acts 1953, No. 122, and acts amendatory thereto. It shall also be cumulative to laws in effect that were in effect prior to the enactment of Acts 1953, No. 122, which imposed duties upon the Arkansas Department of Transportation and the Director of the Department of Finance and Administration, **as well as their successor entities and officials**, which were transferred to the Department of Arkansas State Police under the provisions of Acts 1953, No. 122, as amended.

SECTION 4809. Arkansas Code § 27-50-204(c), concerning employees of the Arkansas Highway Police Division of the Arkansas Department of Transportation, is amended to read as follows:

<< AR ST § 27-50-204 >>

(c) All moneys coming into the hands of the employees in the enforcement of revenue laws shall be subject to regulations and procedures as the ~~Director~~ **Secretary** of the Department of Finance and Administration shall direct.

SECTION 4810. Arkansas Code § 27-50-303(2), concerning nonmoving traffic law violations involving drivers' licenses, is amended to read as follows:

<< AR ST § 27-50-303 >>

(2) Making a false statement to the ~~Director~~ **Secretary** of the Department of Finance and Administration to obtain a driver's license — Class A misdemeanor as defined under § 5-53-103 of the Arkansas Criminal Code.

SECTION 4811. Arkansas Code § 27-50-307(b), concerning negligent homicide, is amended to read as follows:

<< AR ST § 27-50-307 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall revoke the operator's or chauffeur's license of any person convicted of negligent homicide under the provisions of this section.

SECTION 4812. Arkansas Code § 27-50-407 is amended to read as follows:

<< AR ST § 27-50-407 >>

27-50-407. Annual audit.

The records of all officials charged with the duty of collecting penalties as prescribed in this subchapter shall be audited annually by the ~~Director~~ **Secretary** of the Department of Finance and Administration or his or her designated agents.

SECTION 4813. Arkansas Code § 27-50-911 is amended to read as follows:

<< AR ST § 27-50-911 >>

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 4814. Arkansas Code § 27-51-102(b)(1), concerning penalties and the disposition of fines, is amended to read as follows:

<< AR ST § 27-51-102 >>

(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 4815. Arkansas Code § 27-70-202(a)(2), concerning the Arkansas Highway Revenue Distribution Law, is amended to read as follows:

<< AR ST § 27-70-202 >>

(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 4816. Arkansas Code § 27-70-206(2), concerning the distribution to state funds of all highway revenues, is amended to read as follows:

<< AR ST § 27-70-206 >>

(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

SECTION 4817. Arkansas Code § 27-70-207(b)(3)(B), concerning the distribution to county and city funds, is amended to read as follows:

<< AR ST § 27-70-207 >>

(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 4818. Arkansas Code § 27-101-110 is amended to read as follows:

<< AR ST § 27-101-110 >>

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 4819. Arkansas Code § 27-101-111(a)(2)(C), concerning the distribution of funds, is amended to read as follows:

<< AR ST § 27-101-111 >>

(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 4820. Arkansas Code § 27-101-303(d), concerning the establishment of a system for identification numbering for all motorboats, is amended to read as follows:

<< AR ST § 27-101-303 >>

(d) The identification numbers shall be assigned to each county in the state, and it shall be the duty of the ~~Director~~ **Secretary** of the Department of Finance and Administration to issue the identification numbers to the owners of motorboats in accordance with the provisions of subchapters 1-3 of this chapter.

SECTION 4821. Arkansas Code § 27-101-304(a), concerning the filing of an application and issuance of a certificate of a hull identification number, is amended to read as follows:

<< AR ST § 27-101-304 >>

(a) The owner of each motorboat for which numbering is required by this state shall file an application for a number within thirty (30) calendar days after the date of purchase with the ~~Director~~ **Secretary** of the Department of Finance and Administration on forms approved by the Arkansas State Game and Fish Commission.

SECTION 4822. Arkansas Code § 27-101-304(e)(1), concerning the filing of an application and issuance of a certificate of a hull identification number, is amended to read as follows:

<< AR ST § 27-101-304 >>

(e)(1) Upon receipt of the application in approved form, accompanied by proof that the motorboat has been assessed or listed for assessment and, if it is equipped with more than fifty horsepower (50 hp), or is personal watercraft, is covered by a liability insurance policy issued by an insurance company authorized to do business in this state, the ~~director~~ **secretary** shall enter the application upon the records of his or her office and issue to the applicant a certificate of number stating the number awarded to the motorboat and the name and address of the owner.

SECTION 4823. Arkansas Code § 27-101-304(f)(2), concerning the filing of an application and issuance of a certificate of a hull identification number, is amended to read as follows:

<< AR ST § 27-101-304 >>

(2) The duplicate shall be retained as a record by the ~~director~~ **secretary**.

SECTION 4824. Arkansas Code § 27-101-305(a)(1), concerning the display of motorboat hull numbers, is amended to read as follows:

<< AR ST § 27-101-305 >>

(a)(1) The owner shall procure and attach to each side of the bow of the motorboat numbers conforming to the certificate of number issued to the owner by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 4825. Arkansas Code § 27-101-306(b) and (c), concerning the numbering period, expiration, and renewal of boat certificates, are amended to read as follows:

<< AR ST § 27-101-306 >>

(b) The ~~Director~~ **Secretary** of the Department of Finance and Administration shall establish a system in a manner that the expiration dates of the various certificates of numbers will be evenly distributed throughout the year and each year thereafter to the end that boat certificates of numbers will be renewable as uniformly as practicable throughout each of the twelve (12) months of the license year in each year.

(c) Upon request, the ~~director~~ **secretary** shall assign to any owner of two (2) or more boats the same registration period.

SECTION 4826. Arkansas Code § 27-101-309(a) and (b), concerning the change of *boat* ownership, are amended to read as follows:

<< AR ST § 27-101-309 >>

(a) Should the ownership of a motorboat change, the new owner shall file an application with the ~~Director~~ **Secretary** of the Department of Finance and Administration for the transfer of the certificate of operation of the motorboat to the new owner within thirty (30) calendar days after the date of the ownership change.

(b) Upon receipt of the application, the ~~director~~ **secretary** shall cancel the certificate of number issued to the former owner of the motorboat and shall assign the number to the new owner of the motorboat and shall issue a certificate of number to the new owner.

SECTION 4827. Arkansas Code § 27-101-310 is amended to read as follows:

<< AR ST § 27-101-310 >>

27-101-310. Destroyed or abandoned boats.

(a) Whenever any motorboat numbered under the provisions of this subchapter shall be destroyed or abandoned, its owner shall notify the ~~Director~~ **Secretary** of the Department of Finance and Administration within fifteen (15) days after the destruction or abandonment, and the certificate of number of the motorboat shall be terminated.

(b) The ~~director~~ **secretary** shall notify the Arkansas State Game and Fish Commission of the termination of any certificate of number.

SECTION 4828. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 8 — Department of Health

<< AR ST § 25-43-801 >>

25-43-801. Department of Health.

There is created the Department of Health as a cabinet-level department.

<< AR ST § 25-43-802 >>

25-43-802. State entities transferred to Department of Health.

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

- (1) The Advisory Board for Interpreters Between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf, created under § 20-14-804;**
- (2) The Advisory Committee on Healthcare Acquired Infections, created under § 20-9-1204;**
- (3) The Advisory Council to the Arkansas Youth Suicide Prevention Task Force, created under § 20-77-1607;**
- (4) The Arkansas Board of Dispensing Opticians, created under § 17-89-201;**
- (5) The Arkansas Board of Examiners in Counseling, created under § 17-27-201;**
- (6) The Arkansas Board of Hearing Instrument Dispensers, created under § 17-84-201;**
- (7) The Arkansas Board of Podiatric Medicine, created under § 17-96-201;**
- (8) The Arkansas Commission for the Newborn Umbilical Cord Blood Initiative, created under § 20-8-505;**
- (9) The Arkansas Dietetics Licensing Board, created under § 17-83-201;**
- (10) The Arkansas Minority Health Commission, created under § 20-2-102;**
- (11) The Arkansas Orthotics, Prosthetics, and Pedorthics Advisory Board, created under § 17-107-201;**
- (12) The Arkansas Psychology Board, created under § 17-97-201;**
- (13) The Arkansas Social Work Licensing Board, created under § 17-103-201;**
- (14) The Arkansas Spinal Cord Commission, created under § 20-8-202;**
- (15) The Arkansas State Board of Acupuncture and Related Techniques, created under § 17-102-201;**
- (16) The Arkansas State Board of Athletic Training, created under § 17-93-404;**
- (17) The Arkansas State Board of Chiropractic Examiners, created under § 17-81-201;**
- (18) The Arkansas State Board of Dental Examiners, created under § 17-82-201;**
- (19) The Arkansas State Board of Nursing, created under § 17-87-201;**
- (20) The Arkansas State Board of Pharmacy, created under § 17-92-201;**
- (21) The Arkansas State Board of Physical Therapy, created under § 17-93-201;**
- (22) The Arkansas State Board of Sanitarians, created under § 17-43-201;**

- (23) The Arkansas State Medical Board, created under § 17-95-301;
- (24) The Arkansas Suicide Prevention Council, created under § 20-45-302;
- (25) The Arkansas Surgeon General, created under § 25-43-806;
- (26) The Arkansas Tobacco Settlement Commission, created under § 19-12-117;
- (27) The Board of Examiners in Speech-Language Pathology and Audiology, created under § 17-100-201;
- (28) The Breast Cancer Control Advisory Board, created under § 20-15-1304;
- (29) The Cervical Cancer Task Force, created under § 20-9-1102;
- (30) The Child Health Advisory Committee, created under § 20-7-133;
- (31) The Cosmetology Technical Advisory Committee, created under § 17-26-201;
- (32) The Committee on Plumbing Examiners, created under § 17-38-202;
- (33) The Drinking Water Advisory and Operator Licensing Committee, created under § 17-51-104;
- (34) The Emergency Medical Services Advisory Council, created under § 20-13-205;
- (35) The Health Services Permit Agency, created under § 20-8-102;
- (36) The Health Services Permit Commission, created under § 20-8-104;
- (37) The Marine Sanitation Advisory Committee, created under § 27-101-405;
- (38) The Massage Therapy Technical Advisory Committee, created under § 17-86-201;
- (39) The Medical Ionizing Radiation Licensure Committee, created under § 17-106-104;
- (40) The Prescription Drug Monitoring Program Advisory Committee, created under § 20-7-605;
- (41) The Prescriptive Authority Advisory Committee, created under § 17-87-205;
- (42) The State Board of Examiners of Alcoholism and Drug Abuse Counselors, created under § 17-27-404;
- (43) The State Board of Optometry, created under § 17-90-201;
- (44) The State Board of Health, created under § 20-7-102;
- (45) The State Hospice Office, created under § 20-7-117;
- (46) The State Kidney Disease Commission, created under § 20-15-602;
- (47) The State Board of Disease Intervention Specialists, created under § 17-98-201;
- (48) The Tobacco Prevention and Cessation Program, created under § 19-12-113; and
- (49) The Universal Newborn Hearing Screening, Tracking and Intervention Program and Advisory Board, created under § 20-15-1503.

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

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

<< AR ST § 25-43-803 >>

25-43-803. Secretary of the Department of Health.

(a) The executive head of the Department of Health shall be the Secretary of the Department of Health.

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

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

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

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

(1) Hire department personnel;

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

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

<< AR ST § 25-43-804 >>

25-43-804. Director.

(a) The Secretary of the Department of Health may employ a Director of the Department of Health.

(b) The secretary may delegate his or her functions, powers, and duties to the director or to other various units or personnel of the Department of Health as he or she shall deem desirable and necessary for the effective and efficient operation of the department.

(c)(1) All other personnel of the department shall be employed by and shall serve at the pleasure of the secretary.

(2) However, this section does not reduce any right that an employee of the department has under any civil service or merit system.

(d) Each unit of the department shall be under the direction, control, and supervision of the secretary.

<< AR ST § 25-43-805 >>

25-43-805. Office of Oral Health.

- (a) The Department of Health shall maintain an Office of Oral Health.
- (b) The Secretary of the Department of Health may appoint a Director of the Office of Oral Health.
 - (1) The Director of the Office of Oral Health shall be an experienced public health dentist licensed to practice under the Arkansas Dental Practice Act, § 17-82-101 et seq.
 - (2) The Director of the Office of Oral Health shall:
 - (A) Plan, direct, and coordinate all dental public health programs with other local, state, and national health programs;
 - (B) Serve as the department's chief advisor on matters involving oral health; and
 - (C) Plan, implement, and evaluate all oral health programs within the department.

<< AR ST § 25-43-806 >>

25-43-806. Arkansas Surgeon General.

- (a) The Secretary of the Department of Health may employ the Arkansas Surgeon General.
- (b) If employed by the Secretary of the Department of Health, the Arkansas Surgeon General shall:
 - (1) Be a graduate of a school of medicine recognized by the Arkansas State Medical Board;
 - (2) Be licensed and in good standing with the Arkansas State Medical Board; and
 - (3) Serve as an advisor to the secretary.
- (c) The Arkansas Surgeon General shall perform the duties required of him or her by the secretary, including without limitation:
 - (1) Reviewing, assessing, and developing health policy options, including insurance coverage, health risk management, disease prevention, and health promotion strategies across state agencies;
 - (2) Providing health policy advice for the secretary and senior state agency officials;
 - (3) Raising awareness of healthcare and public health areas of priority for advancement of the health of the citizens of Arkansas;
 - (4) Reviewing legislative analyses and proposed legislation and creating position statements for the Governor and senior state agency officials;
 - (5) Advising the secretary, senior state agency officials, and governing boards and commissions on policy issues and program accomplishments; and
 - (6) Providing medical review oversight and guidance to health and human services clinical programs upon the request of the secretary.

<< AR ST § 25-43-807 >>

25-43-807. Patient care providers — Wages — Required withholding — Fringe benefits.

(a) The Department of Health may pay wages and required state withholding, federal withholding, required matching, and other fringe benefits for patient care part-time intermittent contractual personnel who must be employed in order to provide services in the home.

(b) These payments will be made from the appropriation for professional fees and services.

<< AR ST § 25-43-808 >>

25-43-808. Additional compensation — County health unit administrators.

(a) Any employee serving in the capacity of county health unit administrator shall be eligible for up to ten percent (10%) of additional compensation within the grade during the period of time in which the employee occupies the position.

(b) Employees on the highest level of their grade shall be eligible for additional compensation in an amount not to exceed five and one-half percent (5.5%) of their current salary upon assuming responsibility, and this amount shall not be construed as exceeding the line item maximum for the grade for that position.

(c)(1) The Department of Health shall certify to the Chief Fiscal Officer of the State the assignment of duties of each employee in this position, the length of the assignment, and the location and reason for the assignment.

(2) The Chief Fiscal Officer of the State shall approve the request prior to the awarding of additional compensation.

<< AR ST § 25-43-809 >>

25-43-809. Office of Health Information Technology — Creation — Purpose — Policy.

(a) The Office of Health Information Technology is created within the Department of Health.

(b) The coordination of health information technology activities throughout Arkansas by the Office of Health Information Technology is necessary to obtain the maximum potential value from the investment of federal and state resources to increase the use of health information technology.

(c) The exchange of health information made possible by the State Health Alliance for Records Exchange can improve the quality of health of Arkansas citizens by reducing the potential for medical errors, reducing the incidence of redundant tests and procedures, improving patient safety, and making the delivery of healthcare services more efficient and affordable.

(d) The Office of Health Information Technology and the State Health Alliance for Records Exchange shall respect and safeguard each person's privacy interests in his or her health and medical information.

(e) The Office of Health Information Technology is authorized to transfer the State Health Alliance for Records Exchange to a nonprofit corporation.

<< AR ST § 25-43-810 >>

25-43-810. Definitions.

As used in §§ 25-43-809 – 25-43-812:

(1) “Agency” means any agency, board, commission, public instrumentality, political subdivision, or any of the foregoing entities acting on behalf of the State of Arkansas that store, gather, or generate health information;

(2) “Deidentified” means the same as the meaning under the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104–191;

(3) “Health information” means any information, whether oral or recorded in any form or medium, that:

(A) Is created or received by:

- (i) A provider of health care;**
- (ii) A health plan;**
- (iii) A public health authority;**
- (iv) An employer;**
- (v) A health insurer;**
- (vi) A school or university; or**
- (vii) A healthcare clearinghouse; and**

(B) Relates to the:

- (i) Past, present, or future physical or mental health or condition of an individual;**
- (ii) Provision of health care to an individual; or**
- (iii) Past, present, or future payment for the provision of health care to an individual;**

(4) “Health information exchange” means the electronic movement of health-related information among organizations according to nationally recognized standards;

(5) “Health information technology” means the application of information processing involving both computer hardware and software and other technology devices that deal with the storage, retrieval, sharing, and use of healthcare information, data, and knowledge for communication and decision-making;

(6) “Identified” means the same as the meaning under the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104–191;

(7) “Nonprofit corporation” means a corporation in which no part of the income is distributable to its members, directors, or officers as under the Arkansas Nonprofit Corporation Act of 1993, § 4–33–101 et seq.; and

(8) “State Health Alliance for Records Exchange” means the entity responsible for the processes and procedures that enable the electronic exchange of interoperable health information in Arkansas.

<< AR ST § 25–43–811 >>

25–43–811. Duties and responsibilities of the Office of Health Information Technology.

(a) The Office of Health Information Technology shall coordinate the health information technology initiatives of the state with relevant executive branch agencies, including without limitation state boards, commissions, nonprofit corporations, and institutions of higher education.

(b) The Office of Health Information Technology Coordinator shall be selected and serve in a manner prescribed by the Secretary of the Department of Health.

(c) The office shall:

(1) Assure the effective coordination and collaboration of health information technology planning, development, implementation, and financing;

(2) Review all health information technology-related grant applications before submission to funding entities;

(3) Accept, receive, retain, disburse, and administer any state special or general revenue funds or federal funds specifically appropriated for health information technology;

(4) Make contracts and execute all instruments necessary or convenient for carrying out its business;

(5) Recommend to the State Board of Health regarding rules necessary to carry out the policies and objectives of this chapter;

(6) Plan, establish, and operate the State Health Alliance for Records Exchange until the time when the operational responsibility and authority for the State Health Alliance for Records Exchange is transferred to a nonprofit corporation; and

(7)(A) Establish reasonable fees or charges for the use of the State Health Alliance for Records Exchange to fund the operational costs of the State Health Alliance for Records Exchange and the office.

(B) Fees or charges established under subdivision (c)(7)(A) of this section shall be set with the input and guidance of the users of the State Health Alliance for Records Exchange, stakeholders, and other interested parties.

(C) Fees or charges established under subdivision (c)(7)(A) of this section shall not exceed the total cost of operating the State Health Alliance for Records Exchange, not including staffing costs for the State Health Alliance for Records Exchange and the office.

(D) Users of data under this chapter shall be charged in a manner that is proportional to their use of the State Health Alliance for Records Exchange.

(E) Revenue generated by the fees or charges under subdivision (c)(7)(A) of this section shall be deposited into the Health Information Technology Fund, § 19-5-1244.

<< AR ST § 25-43-812 >>

25-43-812. State Health Alliance for Records Exchange — Duties.

(a) The State Health Alliance For Records Exchange shall:

(1) Serve as the official health information exchange for the State of Arkansas;

(2) Be organized for the purpose of improving the health of Arkansans by:

(A) Promoting efficient and effective communication among multiple healthcare providers, including without limitation hospitals, physicians, payers, employers, pharmacies, laboratories, and other healthcare entities;

(B) Creating efficiencies in healthcare costs by eliminating redundancy in data capture and storage and reducing administrative, billing, and data collection costs;

(C) Creating the ability to monitor community health status; and

(D) Providing reliable information to healthcare consumers and purchasers regarding the quality and cost-effectiveness of health care, health plans, and healthcare providers;

(3)(A) Until a nonprofit corporation operates the State Health Alliance for Records Exchange, the State Health Alliance for Records Exchange shall be established and operated by the Office of Health Information Technology with the advice of the Health Information Exchange Council, consisting of the following members appointed by the Secretary of the Department of Health:

(i) The Office of Health Information Technology Coordinator;

(ii) A representative of the Department of Finance and Administration;

(iii) A representative of the Department of Human Services;

(iv) A representative of the Division of Information Systems;

(v) A representative of the health insurance industry;

(vi) A representative of the Arkansas Foundation for Medical Care, Inc.;

(vii) A representative of the Arkansas Hospital Association, Inc.;

(viii) A representative of the Arkansas Medical Society, Inc.;

(ix) A representative of the Arkansas Minority Health Commission;

(x) A representative of the Arkansas Nurses Association;

(xi) A representative of the Division of Science and Technology of the Arkansas Economic Development Commission;

(xii) A representative of the Arkansas Pharmacist's Association;

(xiii) A representative of the business community;

(xiv) A representative of the Community Health Centers of Arkansas, Inc.;

(xv) A representative of the University of Arkansas for Medical Sciences;

(xvi) A representative of the Arkansas Health Care Association; and

(xvii) Two (2) healthcare consumers.

(b) The Chair of the Health Information Exchange Council shall be elected by the members of the council.

(c)(1) The members of the council shall serve three-year terms.

(2) A member may be re-appointed to serve on the council.

(3) In the event of a vacancy on the council, a person may be appointed to serve the remainder of the term.

(d)(1) The State Health Alliance for Records Exchange is not a healthcare provider and is not subject to claims under § 16–114–201 et seq.

(2) A person who participates in or subscribes to the services or information provided by the State Health Alliance for Records Exchange shall not be liable in any action for damages or cost of any nature that results solely from the person's use or failure to use the State Health Alliance for Records Exchange information or data that was imputed or retrieved under the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and regulations adopted under the act, state confidentiality laws and the rules of the State Health Alliance for Records Exchange as approved by the Office of Health Information Technology or the governing body of the nonprofit corporation.

(3) A person shall not be subject to antitrust or unfair competition liability based on membership or participation in the State Health Alliance for Records Exchange, which provides an essential governmental function for the public health and safety and enjoys state sovereign immunity.

(e) A person who provides information and data to the State Health Alliance for Records Exchange retains a property right in the information or data but grants to the other participants or subscribers a nonexclusive license to retrieve and use that information or data under the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and any amendments and regulations adopted under the act, state confidentiality laws, and the rules of the State Health Alliance for Records Exchange.

(f) All processes or software developed, designed, or purchased by the State Health Alliance for Records Exchange shall remain the property of the State Health Alliance for Records Exchange subject to use by participants or subscribers under the rules of the State Health Alliance for Records Exchange.

(g) Patient-specific protected health information shall be disclosed only in accordance with the patient's authorization or in compliance with state confidentiality laws and the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and regulations under the act.

(h) Executive branch agencies, including state boards, commissions, nonprofit corporations, and institutions of higher education that implement, acquire, or upgrade health information technology systems shall use health information technology systems and products that meet minimum standards adopted by the State Health Alliance for Records Exchange.

(i) All identified or deidentified health information contained in, stored in, submitted to, transferred by, or released from the State Health Alliance for Records Exchange is not disclosable under applicable state or federal law except to:

(1) A healthcare provider; or

(2) Other authorized person or entity as described by policies and rules promulgated by the State Board of Health or the State Alliance for Records Exchange.

(j)(1) Upon the transfer to a nonprofit corporation, the State Health Alliance for Records Exchange shall be governed under the bylaws and incorporation documents of the nonprofit corporation.

(2) The bylaws and incorporation documents of the nonprofit corporation shall further only the objectives and policies set forth in §§ 25–43–809 — 25–43–812.

SECTION 4829. Arkansas Code § 4-97-103(2), concerning the definition of “authorized person” under the Arkansas Retail Pet Store Consumer Protection Act of 1991, is amended to read as follows:

<< AR ST § 4-97-103 >>

(2) “Authorized person” means the ~~Director~~ **Secretary** of the Department of Health or his or her delegate, or any law enforcement officer;

SECTION 4830. Arkansas Code § 5-64-101(3)(B)(i), concerning the definition of “anabolic steroid” under the Uniform Controlled Substances Act, is amended to read as follows:

<< AR ST § 5-64-101 >>

(B)(i) “Anabolic steroid” does not include an anabolic steroid that is expressly intended for administration through an implant to cattle or another nonhuman species and that has been approved by the ~~Director~~ **Secretary** of the Department of Health for such administration.

SECTION 4831. Arkansas Code § 5-64-201 is amended to read as follows:

<< AR ST § 5-64-201 >>

5-64-201. Director's Secretary's duties.

(a)(1)(A)(i) The ~~Director~~ **Secretary** of the Department of Health shall administer this chapter and may add a substance to or delete or reschedule any substance enumerated in a schedule under the procedures of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(ii) The ~~director~~ **secretary** may promulgate without action or approval of the State Board of Health an emergency rule under the procedures of the Arkansas Administrative Procedure Act, § 25-15-201 et seq., that adds a substance to or deletes a substance from a schedule or reschedules a substance.

(iii) If the ~~director~~ **secretary** adds, deletes, or reschedules a substance through an emergency rule under the procedures of the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the emergency rule may be effective for no longer than one hundred eighty (180) days.

(B) However, the ~~director~~ **secretary** shall not delete any substance from a schedule in effect on July 20, 1979, without prior approval by the Legislative Council.

(2) In making a determination regarding a substance, the ~~director~~ **secretary** shall consider the following:

(A) The actual or relative potential for abuse;

(B) The scientific evidence of its pharmacological effect, if known;

(C) The state of current scientific knowledge regarding the substance;

(D) The history and current pattern of abuse;

(E) The scope, duration, and significance of abuse;

(F) The risk to public health;

(G) The potential of the substance to produce psychic or physiological dependence liability; and

(H) Whether the substance is an immediate precursor of a substance already controlled under this subchapter.

(b) After considering the factors enumerated in subsection (a) of this section, the ~~director~~ **secretary** shall make findings with respect to the factors and issue a rule controlling the substance if he or she finds the substance has a potential for abuse.

(c) If the ~~director~~ **secretary** designates a substance as an immediate precursor, a substance that is a precursor of the controlled precursor is not subject to control solely because it is a precursor of the controlled precursor.

(d)(1) If any substance is designated as a controlled substance under federal law and notice of the designation is given to the ~~director~~ **secretary**, the ~~director~~ **secretary** shall similarly control the substance under this chapter after the expiration of thirty (30) days from publication in the Federal Register of a final order designating a substance as a controlled substance unless within that thirty-day period the ~~director~~ **secretary** objects to inclusion.

(2)(A) If the ~~director~~ **secretary** objects to inclusion, the ~~director~~ **secretary** shall publish the reasons for objection and afford any interested party an opportunity to be heard.

(B) At the conclusion of the hearing, the ~~director~~ **secretary** shall publish his or her decision.

(C) Any person aggrieved by a decision of the ~~director~~ **secretary** is entitled to judicial review in the Pulaski County Circuit Court.

(3) Upon publication of objection to inclusion under this chapter by the ~~director~~ **secretary**, control under this chapter is stayed until the ~~director~~ **secretary** publishes his or her decision or, if judicial review is sought, the inclusion is stayed until adjudication of the judicial review.

(4) If notice has been given to the ~~director~~ **secretary** that the United States Food and Drug Administration has designated, rescheduled, or descheduled a marijuana-derived substance under federal law and approved for marketing the marijuana-derived substance as a prescription medication, the ~~director~~ **secretary** shall consider the designation, rescheduling, or descheduling of the marijuana-derived substance under this chapter.

(e) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco.

(f) The ~~director~~ **secretary** shall schedule gamma-hydroxybutyrate and its known precursors and analogs in a manner consistent with the procedures outlined in this section.

SECTION 4832. Arkansas Code § 5-64-203 is amended to read as follows:

<< AR ST § 5-64-203 >>

5-64-203. Criteria for Schedule I.

The ~~Director~~ **Secretary** of the Department of Health shall place a substance in Schedule I if he or she finds that the substance has:

(1) High potential for abuse; and

(2) No accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

SECTION 4833. Arkansas Code § 5-64-204 is amended to read as follows:

<< AR ST § 5-64-204 >>

5-64-204. Substances in Schedule I.

(a) In addition to any substance placed in Schedule I by the ~~Director~~ **Secretary** of the Department of Health under § 5-64-203, any material, compound, mixture, or preparation, whether produced directly or indirectly from a substance of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, that contains any quantity of the following substances, or that contains any of the following substances' analogs, salts, isomers, and salts of isomers when the existence of the analogs, salts, isomers, and salts of isomers is possible within the specific chemical designation, with the following chemical structure is included in Schedule I:

- (1) 4-Methylmethcathinone (Mephedrone);
- (2) Methylenedioxypropylvalerone (MDPV);
- (3) 3,4-Methylenedioxy-N-methylcathinone (Methylone);
- (4) 4-Methoxymethcathinone;
- (5) 3-Fluoromethcathinone;
- (6) 4-Fluoromethcathinone; or
- (7) A compound, unless listed in another schedule or a legend drug, that is structurally derived from 2-Amino-1-phenyl-1-propanone by modification or by substitution:
 - (A) In the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one (1) or more other univalent substituents;
 - (B) At the 3-position with an alkyl substituent; or
 - (C) At the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure.

(b) The ~~Director~~ **Secretary** of the Department of Health shall not delete a controlled substance listed in this section from Schedule I.

SECTION 4834. Arkansas Code § 5-64-205 is amended to read as follows:

<< AR ST § 5-64-205 >>

5-64-205. Criteria for Schedule II.

The ~~Director~~ **Secretary** of the Department of Health shall place a substance in Schedule II if he or she finds that:

- (1) The substance has high potential for abuse;
- (2) The substance has currently accepted medical use in treatment in the United States or currently accepted medical use with severe restrictions; and

- (3) The abuse of the substance may lead to severe psychic or physical dependence.

SECTION 4835. Arkansas Code § 5-64-207 is amended to read as follows:

<< AR ST § 5-64-207 >>

5-64-207. Criteria for Schedule III.

The ~~Director~~ **Secretary** of the Department of Health shall place a substance in Schedule III if he or she finds that:

- (1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

SECTION 4836. Arkansas Code § 5-64-209 is amended to read as follows:

<< AR ST § 5-64-209 >>

5-64-209. Criteria for Schedule IV.

The ~~Director~~ **Secretary** of the Department of Health shall place a substance in Schedule IV if he or she finds that:

- (1) The substance has a low potential for abuse relative to substances in Schedule III;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

SECTION 4837. Arkansas Code § 5-64-211 is amended to read as follows:

<< AR ST § 5-64-211 >>

5-64-211. Criteria for Schedule V.

The ~~Director~~ **Secretary** of the Department of Health shall place a substance in Schedule V if he or she finds that:

- (1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

SECTION 4838. Arkansas Code § 5-64-212(a), concerning substances in Schedule V under the Uniform Controlled Substances Act, is amended to read as follows:

<< AR ST § 5-64-212 >>

(a) An ephedrine combination product, pseudoephedrine, and phenylpropanolamine, as defined in § 5-64-1105, are designated Schedule V controlled substances in addition to the drugs and other substances listed in Schedule V of the List of Controlled Substances for the State of Arkansas promulgated by the ~~Director~~ **Secretary** of the Department of Health.

SECTION 4839. Arkansas Code § 5-64-212(c), concerning substances in Schedule V under the Uniform Controlled Substances Act, is amended to read as follows:

<< AR ST § 5-64-212 >>

(c) The ~~director~~ **secretary** may reschedule a product described in subdivision (b)(1) or subdivision (b)(2) of this section if it is determined that the conversion of the active ingredient in the product into methamphetamine or its salts or precursors is feasible.

SECTION 4840. Arkansas Code § 5-64-214 is amended to read as follows:

<< AR ST § 5-64-214 >>

5-64-214. Criteria for Schedule VI.

The ~~Director~~ **Secretary** of the Department of Health shall place a substance in Schedule VI if he or she finds that:

- (1) The substance is not currently accepted for medical use in treatment in the United States;
- (2) There is lack of accepted safety for use of the drug or other substance even under direct medical supervision;
- (3) The substance has relatively high psychological or physiological dependence liability, or both; and
- (4) Use of the substance presents a definite risk to public health.

SECTION 4841. Arkansas Code § 5-64-215(a), the introductory language concerning the substances in Schedule VI under the Uniform Controlled Substances Act, is amended to read as follows:

<< AR ST § 5-64-215 >>

(a) In addition to any substance placed in Schedule VI by the ~~Director~~ **Secretary** of the Department of Health under § 5-64-214, any material, compound, mixture, or preparation, whether produced directly or indirectly from a substance of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, that contains any quantity of the following substances, or that contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation, is included in Schedule VI:

SECTION 4842. Arkansas Code § 5-64-215(b), concerning the substances in Schedule VI under the Uniform Controlled Substances Act, is amended to read as follows:

<< AR ST § 5-64-215 >>

(b) However, the ~~director~~ **secretary** shall not delete a controlled substance listed in this section from Schedule VI.

SECTION 4843. Arkansas Code § 5-64-216 is amended to read as follows:

<< AR ST § 5-64-216 >>

5-64-216. Schedule revisions.

The ~~Director~~ **Secretary** of the Department of Health shall revise and republish the schedules annually.

SECTION 4844. Arkansas Code § 5-64-414(c), concerning the controlled substance analog under the Uniform Controlled Substances Act, is amended to read as follows:

<< AR ST § 5-64-414 >>

(c) Within ten (10) days after the initiation of prosecution with respect to a controlled substance analog by indictment or information, the prosecuting attorney shall notify the ~~Director~~ **Secretary** of the Department of Health of information relevant to emergency scheduling as provided for in § 5-64-201(d).

SECTION 4845. Arkansas Code § 5-64-415(i)(5), concerning drug precursors under the Uniform Controlled Substances Act, is amended to read as follows:

<< AR ST § 5-64-415 >>

(5) The Department of Health may authorize a manufacturer, wholesaler, retailer, or other person to submit a comprehensive monthly report instead of the report required by subdivision (i)(2)(A) of this section if the ~~Director~~ **Secretary** of the Department of Health determines that:

(A) There is a pattern of regular supply and purchase of the drug precursor between the furnisher and the recipient;
or

(B) The recipient has established a record of utilization of the drug precursor solely for a lawful purpose.

SECTION 4846. Arkansas Code § 5-64-501 is amended to read as follows:

<< AR ST § 5-64-501 >>

5-64-501. Powers of officials generally.

Any law enforcement officer, any person authorized to enforce this chapter, or any employee of the Department of Health designated by the ~~Director~~ **Secretary** of the Department of Health to conduct an examination, investigation, or inspection under this chapter relating to a controlled substance or to a counterfeit drug may:

- (1) Carry a firearm in the performance of his or her official duties;
- (2) Execute and serve a search warrant, arrest warrant, administrative inspection warrant, subpoena, or summons issued under the authority of this state;
- (3) Make an arrest without warrant for any offense under this chapter committed in his or her presence, or if he or she has probable cause to believe that the person to be arrested has committed a violation of this chapter that may constitute a felony;
- (4) Make a seizure of property pursuant to this chapter; or
- (5) Perform any other law enforcement duty as the ~~director~~ **secretary** designates.

SECTION 4847. Arkansas Code § 5-64-504(a)(1), concerning intergovernmental cooperation and the identities of patients and research subjects, is amended to read as follows:

<< AR ST § 5-64-504 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Health shall cooperate with federal and any other state agency in discharging the agency's responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances.

SECTION 4848. Arkansas Code § 5-64-507(a), concerning the conclusiveness of findings by the Department of Health, is amended to read as follows:

<< AR ST § 5-64-507 >>

(a) Any final determination, finding, or conclusion of the ~~Director~~ **Secretary** of the Department of Health under this chapter is a final and conclusive decision of the matter involved.

SECTION 4849. Arkansas Code § 5-64-508(d)(1), concerning educational and research programs designed to prevent and deter misuse and abuse of controlled substances, is amended to read as follows:

<< AR ST § 5-64-508 >>

(d)(1) The ~~Director~~ **Secretary** of the Department of Health may authorize a person engaged in research on the use and effects of a controlled substance to withhold the names and other identifying characteristics of individuals who are the subjects of the research.

SECTION 4850. Arkansas Code § 5-64-508(e)(1), concerning educational and research programs designed to prevent and deter misuse and abuse of controlled substances, is amended to read as follows:

<< AR ST § 5-64-508 >>

(e)(1) The ~~director~~ **secretary** may authorize the possession and distribution of a controlled substance by a person engaged in research.

SECTION 4851. Arkansas Code § 5-64-703 is amended to read as follows:

<< AR ST § 5-64-703 >>

5-64-703. Authority to make inspections.

In carrying out the functions under this chapter, the ~~Director~~ **Secretary** of the Department of Health or his or her duly authorized agent may enter a controlled premises and conduct an administrative inspection of the controlled premises.

SECTION 4852. Arkansas Code § 5-64-1003 is amended to read as follows:

<< AR ST § 5-64-1003 >>

5-64-1003. Inspection of records.

A record maintained pursuant to this subchapter is subject to inspection by any law enforcement officer of this state or any employee of the Department of Health designated by the ~~Director~~ **Secretary** of the Department of Health to conduct an examination, investigation, or inspection under this chapter relating to a controlled substance, counterfeit drug, or precursor chemical.

SECTION 4853. Arkansas Code § 6–81–1202(a)(4), concerning the Graduate Nurse Educator Loan and Scholarship Board, is amended to read as follows:

<< AR ST § 6–81–1202 >>

(4) The ~~Director~~ **Secretary** of the Department of Health or the ~~director's~~ **secretary's** designee; and

SECTION 4854. Arkansas Code Title 11, Chapter 5, Subchapter 2, is repealed.

Subchapter 2 — Industrial Health Service Act

<< Repealed: AR ST § 11–5–201 >>

~~11–5–201. Title.~~

~~This subchapter shall be cited as the “Industrial Health Service Act of 1947”.~~

<< Repealed: AR ST § 11–5–202 >>

~~11–5–202. Exception.~~

~~Nothing in this subchapter shall be construed as applying to the coal mining industry.~~

<< Repealed: AR ST § 11–5–203 >>

~~11–5–203. Penalty.~~

~~(a)(1) Any person, firm, or corporation who shall neglect or refuse to comply with the provisions of this subchapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100) for each offense.~~

~~(2) Each day any employer neglects or refuses to comply with the provisions of this subchapter shall constitute a separate offense.~~

~~(b) It shall be the duty of the prosecuting attorney to prosecute violations of this subchapter.~~

<< Repealed: AR ST § 11–5–204 >>

~~11–5–204. Division of Industrial Hygiene — Creation — Duties.~~

~~(a) The Division of Industrial Hygiene is established as one of the offices over which the State Board of Health maintains supervision.~~

~~(b) The division shall investigate places of employment and study those conditions which might be responsible for ill health of the industrial worker.~~

<< Repealed: AR ST § 11-5-205 >>

~~11-5-205. State Board of Health — Rules and regulations.~~

~~It shall be the duty of the State Board of Health to adopt rules and regulations pertaining to the control of industrial health hazards, including and concerning the maximum allowable limits of materials, ventilation requirements, water supplies, excreta disposal facilities, washing and shower facilities, and other matters pertaining to the maintenance of the health of the worker.~~

<< Repealed: AR ST § 11-5-206 >>

~~11-5-206. Director of Department of Health — Access to certain buildings.~~

~~The Director of the Department of Health or his or her duly authorized deputy shall have access to any firm, corporation, industry, or manufacturing plant for the proper discharge of his or her official duties.~~

<< Repealed: AR ST § 11-5-207 >>

~~11-5-207. Use of injurious material, process, or condition prohibited.~~

~~(a) It shall be a violation of this subchapter for any employer to use or permit to be used in the conduct of his or her business, manufacturing establishment, or other place of employment any material, process, or condition known to have an adverse effect on health.~~

~~(b) However, that material, process, or condition may be used when it is operated, handled, or used in such a manner that injury to the health of the worker will not occur.~~

~~(c) It shall be the duty of the Division of Industrial Hygiene to evaluate and determine whether the material, process, or condition is being operated, handled, or used in such a manner that injury to the health of the worker will not occur.~~

<< Repealed: AR ST § 11-5-208 >>

~~11-5-208. Use of information from studies or investigations.~~

~~(a) Information obtained from studies or upon investigations made in accordance with the provisions of this subchapter shall not be admissible as evidence in any action at law to recover damages for personal injury or in any action under the Workers' Compensation Law, § 11-9-101 et seq.~~

~~(b) By mutual agreement between the Division of Industrial Hygiene and those charged with the administration of the Workers' Compensation Law, § 11-9-101 et seq., studies at the request of the latter may be instituted in industries, and the results of these studies may be reported to the administrators.~~

SECTION 4855. Arkansas Code § 14-15-307(a)(2)(G), concerning the Coroner's Advisory Task Force creation, powers, and duties, is amended to read as follows:

<< AR ST § 14-15-307 >>

(G) The ~~Director~~ **Secretary** of the Department of Health or his or her designee; and

SECTION 4856. Arkansas Code § 14-229-101(b)(8) and (9), concerning the creation and members of the Individual Sewage Systems Advisory Committee, are amended to read as follows:

<< AR ST § 14-229-101 >>

(8) Three (3) members involved with the individual sewage disposal systems program of the Department of Health, to be appointed by the ~~Director~~ **Secretary** of the Department of Health;

(9) The Director of the ~~Arkansas Department~~ **Division** of Environmental Quality or a designee;

SECTION 4857. Arkansas Code § 14-229-101(e)(3), concerning the Individual Sewage Disposal Systems Advisory Committee, is amended to read as follows:

<< AR ST § 14-229-101 >>

(3) The advisory committee shall meet upon call by the chair, at the request of any five (5) members of the committee stated in writing, at the request of the Director of the Division of Environmental Health Protection of the Department of Health, or upon call by the ~~Director~~ **Secretary** of the Department of Health.

SECTION 4858. Arkansas Code § 14-229-102(1), concerning the Individual Sewage Disposal Systems Advisory Committee, is amended to read as follows:

<< AR ST § 14-229-102 >>

(1) To advise with and make recommendations to the ~~Director~~ **Secretary** of the Department of Health and the Director of the Division of Environmental Health Protection of the Department of Health, concerning the utilization and application of alternate and experimental individual sewage disposal systems;

SECTION 4859. Arkansas Code § 14-262-119 is amended to read as follows:

<< AR ST § 14-262-119 >>

14-262-119. County Organization of State Aid Fund.

(a)(1) In addition to any and all other appropriations made for the State Board of Health, there may be made an appropriation which shall be known as the County Organization of State Aid Fund, which shall be expended exclusively for this purpose.

(2) The fund shall be available to any county whenever the county shall make an appropriation of an adequate sum of money, to be approved by the ~~Director~~ **Secretary** of the Department of Health, necessary to do effective work.

(3) All counties which shall be found organized for this work on July 1 of each year shall receive priority in the allocation of funds.

(b)(1) Before any county shall receive state aid under the provisions of this section, a cooperative budget shall be prepared by the county judge, the ~~Director~~ **Secretary** of the Department of Health, and any other agency which may be contributing and shall be signed by each.

(2) The ~~Director~~ **Secretary** of the Department of Health shall draw vouchers against the State Aid Fund, as provided in the cooperative budget, in the usual manner.

SECTION 4860. Arkansas Code § 17-27-406(e), concerning the powers and duties of the State Board of Examiners of Alcoholism and Drug Abuse Counselors, is amended to read as follows:

<< AR ST § 17-27-406 >>

(e) The ~~board~~ **Department of Health** may employ any persons it deems necessary to carry on the work of the board and **the department** shall define their duties and fix their compensation within the limits prescribed by law.

SECTION 4861. Arkansas Code § 17-43-203(d), concerning the duties and powers of the Arkansas State Board of Sanitarians, is repealed.

<< AR ST § 17-43-203 >>

~~(d) The board may employ and fix the compensation of assistants, clerks, stenographers, typists, and other employees to serve at the pleasure of the board, and acquire office space, furniture, supplies, equipment, and other proper conveniences reasonably necessary for the performance of their duties under this chapter.~~

SECTION 4862. Arkansas Code § 17-43-204(b), concerning the disposition of funds by the Arkansas State Board of Sanitarians, is amended to read as follows:

<< AR ST § 17-43-204 >>

(b) The board shall make a report annually to the ~~Governor~~ **Secretary of the Department of Health**, showing all receipts and disbursements of moneys and a summary of all business transacted during the year.

SECTION 4863. Arkansas Code § 17-43-207(a)(1), concerning the transfer of the Arkansas State Board of Sanitarians, is amended to read as follows:

<< AR ST § 17-43-207 >>

(a)(1) Effective July 1, 2013, the Arkansas State Board of Sanitarians is transferred to the Department of Health and shall be administered by the ~~Director~~ **Secretary** of the Department of Health.

SECTION 4864. Arkansas Code § 17-51-104(g), concerning the creation of the Drinking Water Advisory and Operator Licensing Committee, is amended to read as follows:

<< AR ST § 17-51-104 >>

(g) The member of the committee who is a member of the staff of the Engineering Section of the Department of Health shall serve at the pleasure of the ~~Director~~ **Secretary** of the Department of Health.

SECTION 4865. Arkansas Code § 17-80-101(c), concerning the filing and compilation of licensing information of the Arkansas State Board of Chiropractic Examiners, is amended to read as follows:

<< AR ST § 17-80-101 >>

(c) The ~~Director~~ **Secretary** of the Department of Health shall report the deaths of all persons licensed by the boards named in subsection (a) of this section to the Secretary of State within a reasonable time after the information has been received in his or her office. The Secretary of State shall thereupon note after the name of the decedent the fact of his or her death and the date thereof.

SECTION 4866. Arkansas Code § 17-81-204(a), concerning the organization and meetings of the Arkansas State Board of Chiropractic Examiners, is amended to read as follows:

<< AR ST § 17-81-204 >>

(a) The ~~Arkansas State Board of Chiropractic Examiners~~ **Department of Health** shall maintain and operate an office for the administration of its **the business of the Arkansas State Board of Chiropractic Examiners**.

SECTION 4867. Arkansas Code § 17-81-205 is amended to read as follows:

<< AR ST § 17-81-205 >>

17-81-205. Minutes — Records.

(a) The ~~Executive~~ Director of the Arkansas State Board of Chiropractic Examiners shall keep a record of the minutes of the meetings of the board and a record of the names of all persons making application for license under the provisions of this chapter together with a record of the action of the board thereon.

(b) The ~~executive~~ director shall also keep a roll of the names of all licensed and deceased chiropractors who have been licensed to practice in the State of Arkansas.

(c) The record shall at all reasonable times be open for public inspection.

SECTION 4868. Arkansas Code § 17-81-206(a)(1), concerning the duties of the Arkansas State Board of Chiropractic Examiners, is amended to read as follows:

<< AR ST § 17-81-206 >>

(a)(1) The Arkansas State Board of Chiropractic Examiners is empowered to incur whatever expenses it **the board** may deem necessary or expedient in performing its functions. ~~It may employ whatever assistants it may deem necessary or expedient therefor and fix their compensation.~~

SECTION 4869. Arkansas Code § 17-81-206(b)(8), concerning the powers and duties of the Arkansas State Board of Chiropractic Examiners, is amended to read as follows:

<< AR ST § 17-81-206 >>

(8) Employ such persons **a Director of the Arkansas State Board of Chiropractic Examiners, in consultation with the Secretary of the Department of Health**, as may be necessary to carry out the work of the board, who shall have their duties and compensation prescribed by the board within appropriations for that purpose;

SECTION 4870. Arkansas Code § 17-81-207 is amended to read as follows:

<< AR ST § 17-81-207 >>

17-81-207. Executive director Director.

(a) Pursuant to its authority set forth in § 17-81-206(b)(8), the Arkansas State Board of Chiropractic Examiners may employ ~~an executive director~~ **a Director of the Arkansas State Board of Chiropractic Examiners** to maintain and operate its office pursuant to its directions .

(b)(1) ~~The Executive Director of the Arkansas State Board of Chiropractic Examiners~~ **director** in consultation with and review of the Treasurer of the Arkansas State Board of Chiropractic Examiners shall collect all fees and fines on behalf of the board **Arkansas State Board of Chiropractic Examiners** and submit all payment requests on behalf of the board for its state appropriations.

(2) ~~The executive~~ director shall give in writing at the annual meeting of the board a fully itemized report of his or her receipts and disbursements for the preceding year showing the amount of money on hand and shall submit reports for inspection at other times as may be requested by the board or by any of its members.

(3) Copies of the annual reports, actions of the board, and number licensed for the year, certified by the Secretary of the Arkansas State Board of Chiropractic Examiners ~~of the board~~ , shall be submitted by the ~~executive~~ director to the various chiropractic professional organizations in Arkansas **and the Secretary of the Department of Health**.

SECTION 4871. Arkansas Code § 17-81-208(a), concerning the disposition of the funds of the Arkansas State Board of Chiropractic Examiners, is amended to read as follows:

<< AR ST § 17-81-208 >>

(a) All fees and fines authorized by this chapter are the property of the Arkansas State Board of Chiropractic Examiners and shall be paid to the office of the ~~Executive~~ Director of the Arkansas State Board of Chiropractic Examiners who shall collect and dispose of such funds on behalf of the board as provided in this chapter. Any surplus in the treasury of the board at the end of the fiscal year shall remain in the treasury and may be expended in succeeding years for the purposes herein set out.

SECTION 4872. Arkansas Code § 17-81-304(a)(1)(A), concerning the application and fee for a license to practice chiropractic in the State of Arkansas, is amended to read as follows:

<< AR ST § 17-81-304 >>

(a)(1)(A) Applications for a license to practice chiropractic in the State of Arkansas shall be made to the ~~Executive~~ Director of the Arkansas State Board of Chiropractic Examiners in writing on forms furnished by the Arkansas State Board of Chiropractic Examiners.

SECTION 4873. Arkansas Code § 17-82-209 is amended to read as follows:

<< AR ST § 17-82-209 >>

17-82-209. Expenses — Compensation of members and employees.

- (a) The Arkansas State Board of Dental Examiners is empowered to incur whatever expenses it **the board** may deem necessary or expedient in performing its function.
- (b) ~~It may employ whatever assistants it may deem necessary or expedient therefor and fix their compensation.~~
- (c) Each member of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.
- (d) ~~(c)~~ The board shall fix the salary of the Secretary-treasurer of the Arkansas State Board of Dental Examiners.
- (e) ~~(d)~~ All of the disbursements provided for in this section shall be made out of the fees and fines collected by the board.

SECTION 4874. Arkansas Code § 17-82-210(b), concerning annual reports of the Arkansas State Board of Dental Examiners, is amended to read as follows:

<< AR ST § 17-82-210 >>

- (b) The report shall be filed with the ~~Governor~~ **Secretary of the Department of Health** not later than September 1 of each year, and a copy thereof, certified by the President **of the Arkansas State Board of Dental Examiners** and ~~the~~ Secretary-treasurer of the Arkansas State Board of Dental Examiners, shall be filed at the same time with the Secretary of the Arkansas State Dental Association.

SECTION 4875. Arkansas Code § 17-83-202 is amended to read as follows:

<< AR ST § 17-83-202 >>

17-83-202. Organization and meetings — Personnel .

- (a)(1) At least two (2) regular meetings of the Arkansas Dietetics Licensing Board shall be held each calendar year, and at the first regular meeting every two (2) years, the board shall elect a chair and vice chair. Other regular meetings may be held at such time as the rules of the board may provide.
- (2) Special called meetings may be held at the discretion of the Chair of the Arkansas Dietetics Licensing Board or at the written request of any three (3) members of the board.
- (3) Reasonable notice of all meetings shall be given in the manner prescribed by the laws of this state.
- (4) A quorum of the board shall consist of four (4) members.
- (5) A secretary of the board shall be elected ~~by the board and shall hold office at the pleasure of the board~~ **employed by the Department of Health.**
- (6) The board shall adopt a seal, which must be affixed to all certificates issued by the board.
- (b) ~~The board shall employ necessary~~ **Department of Health shall employ** personnel for the performance of its ~~the board's~~ functions and ~~fix the compensation thereof within the limits of funds available to the board~~ **the board may disburse funds to the Department of Health to employ necessary personnel for the performance of the board's functions.**

SECTION 4876. Arkansas Code § 17-84-202(c), concerning the organization and proceedings of the Arkansas Board of Hearing Instrument Dispensers, is amended to read as follows:

<< AR ST § 17-84-202 >>

(c) The board shall keep a record of all of its proceedings and transactions and shall annually make a report to the Governor **Secretary of the Department of Health** showing all receipts and disbursements and a summary of all business transacted during the year.

SECTION 4877. Arkansas Code § 17-84-203(10), concerning the powers and duties of the Arkansas Board of Hearing Instrument Dispensers, is amended to read as follows:

<< AR ST § 17-84-203 >>

(10)(A) To employ **request the use of Department of Health** investigators, issue subpoenas, and perform all activities necessary to effectively investigate claims and pursue disciplinary action against licensees.

(B) The board may **inspect or may authorize the Department of Health investigators to** inspect an established place of business during regular hours of operation; and

SECTION 4878. Arkansas Code § 17-87-202(c) and (d), concerning the organization and proceedings of the Arkansas State Board of Nursing, are amended to read as follows:

<< AR ST § 17-87-202 >>

(c) The board **Department of Health** shall maintain an office for the administration of its **the board's** business.

(d) The board shall annually elect a president, vice president, secretary, and treasurer from among its members. The president shall be a registered nurse.

(e) The ~~Executive~~ Director of the Arkansas State Board of Nursing shall be a registered nurse and meet the qualifications required by the board.

SECTION 4879. Arkansas Code § 17-87-203(4) and (5), concerning the powers and duties of the Arkansas State Board of Nursing, are amended to read as follows:

<< AR ST § 17-87-203 >>

(4) Make an annual report to the Governor **Secretary of the Department of Health;**

(5) Employ personnel **a Director of the Arkansas State Board of Nursing, in consultation with of the Secretary of the Department of Health, if the board determines it** necessary for carrying out its functions;

SECTION 4880. Arkansas Code § 17-89-202(c), concerning meetings and officers of the Arkansas Board of Dispensing Opticians, is amended to read as follows:

<< AR ST § 17-89-202 >>

(c)(1) The Secretary-treasurer of the Arkansas Board of Dispensing Opticians shall perform those administrative duties assigned him or her by the board and shall execute a bond for the state in a sum to be fixed by the board conditioned on the faithful performance of the duties of his or her office.

(2) The board shall outline the duties of the secretary-treasurer and fix his or her compensation, **in consultation with the Secretary of the Department of Health**, per diem, mileage, and other expense moneys in accordance with applicable Arkansas laws and regulations.

SECTION 4881. Arkansas Code § 17-90-202(c), concerning the appointment of members of the State Board of Optometry, is amended to read as follows:

<< AR ST § 17-90-202 >>

(c) The Secretary-treasurer of the State Board of Optometry shall receive such additional salary as may be fixed by the board, **and approved by the Secretary of the Department of Health**.

SECTION 4882. Arkansas Code § 17-90-203(c), concerning meetings, officers, and records of the State Board of Optometry, is amended to read as follows:

<< AR ST § 17-90-203 >>

(c) The board shall make a report annually to the ~~Governor~~ **Secretary of the Department of Health** showing all receipts and disbursements of moneys and a summary of all business transacted during the year.

SECTION 4883. Arkansas Code § 17-90-204(4), concerning the powers and duties of the State Board of Optometry, is repealed.

<< AR ST § 17-90-204 >>

~~(4) To employ or retain the services of attorneys and other necessary assistants in carrying out the provisions of this chapter;~~

SECTION 4884. Arkansas Code § 17-90-205(b)(2), concerning the disposition of funds and the Secretary-treasurer of the State Board of Optometry's bond, is amended to read as follows:

<< AR ST § 17-90-205 >>

(2) The secretary-treasurer shall keep a true and faithful account of all moneys received and all moneys expended and shall file annually with the ~~Governor~~ **Secretary of the Department of Health** a report of all financial transactions duly audited by an independent accountant.

SECTION 4885. Arkansas Code § 17-92-205(b), concerning the rules and regulations of the Arkansas State Board of Pharmacy, is amended to read as follows:

<< AR ST § 17-92-205 >>

(b) It shall be the duty of the board, through officials appointed by it or under its supervision **the Department of Health** for that purpose, to enforce all the provisions of this chapter.

SECTION 4886. Arkansas Code § 17-92-205(c)(1), concerning the rules and regulations of the Arkansas State Board of Pharmacy, is amended to read as follows:

<< AR ST § 17-92-205 >>

(c)(1) Upon written authorization by the board, the board's **Department of Health's** inspectors or other designated agents shall have authority to conduct oversight activities authorized by law, including, but not limited to, audits, investigations, inspections, licensure, or disciplinary actions, civil, administrative, or criminal proceedings or actions, or other activities necessary for appropriate oversight of the regulated activities and may enter any store, business establishment, including any hospital pharmacy, or any other facility holding a license, permit, or other authority issued by the board where drugs, medicines, chemicals, pharmaceuticals, poisons, home medical equipment, or services or other objects, services, or activities regulated by the board are manufactured, sold, dispensed, or conducted to enforce this chapter, the Uniform Controlled Substances Act, §§ 5-64-101 — 5-64-510, § 5-64-1001 et seq., § 5-64-1101 et seq., the Food, Drug, and Cosmetic Act, § 20-56-201 et seq., or § 20-64-501 et seq.

SECTION 4887. Arkansas Code § 17-92-205(c)(2)(A), concerning the rules and regulations of the Arkansas State Board of Pharmacy, is amended to read as follows:

<< AR ST § 17-92-205 >>

(2)(A) Upon written authorization by the board, the board's **Department of Health's** inspectors and other designated agents may obtain copies of any document, prescription, drug order, or other record or physical object relevant to the board's oversight of the regulated activity.

SECTION 4888. Arkansas Code § 17-92-205(c)(2)(B)(i), concerning the rules and regulations of the Arkansas State Board of Pharmacy, is amended to read as follows:

<< AR ST § 17-92-205 >>

(B)(i) With regard to hospital pharmacies, the board's **Department of Health's** inspectors and other designated agents may also view and at the board's **department's** expense make copies of identifiable records relating to patients in patient areas of the hospital if the records are relevant to an activity regulated by the board.

SECTION 4889. Arkansas Code § 17-92-205(c)(6), concerning the rules and regulations of the Arkansas State Board of Pharmacy, is amended to read as follows:

<< AR ST § 17-92-205 >>

(6) The board's **Department of Health's** inspectors and other designated agents may seize products for testing of sterility, potency, and pyrogenicity when inspecting permitted facilities.

SECTION 4890. Arkansas Code § 17-92-206(b), concerning the issuance of bulletins and the annual report of the Arkansas State Board of Pharmacy, is amended to read as follows:

<< AR ST § 17-92-206 >>

(b) The board shall make a written report on September 1 of each year to the ~~Governor~~ **Secretary of the Department of Health** and to the Arkansas Pharmacists Association of all its proceedings, orders, rules, requirements, and regulations, of its receipts and disbursements, including also the names of all persons licensed to practice under this chapter, and a record of permits and renewals.

SECTION 4891. Arkansas Code § 17-92-207 is repealed.

<< Repealed: AR ST § 17-92-207 >>

~~17-92-207. Maintenance of office.~~

~~The Arkansas State Board of Pharmacy shall have the authority to maintain an office, purchase supplies, etc., for the advancement of pharmacy as may in its judgment be deemed necessary to carry out the purposes of this chapter and to enforce the pharmacy laws of this state.~~

SECTION 4892. Arkansas Code § 17-92-208 is amended to read as follows:

<< AR ST § 17-92-208 >>

17-92-208. Authority Authorization for payment to the Department of Health.

(a) The Arkansas State Board of Pharmacy is ~~authorized to~~ **may** make payment **to the Department of Health** for services, salaries, and other purposes from the funds received by the board from issuance of licensed pharmacy permits, renewals, or certificates of licensure of licensed pharmacists, examinations, reciprocity fees, and from other moneys collected.

(b)(1) The ~~board is authorized to~~ **department may** employ an attorney to supervise and conduct its investigations and to institute and prosecute actions and charges for the violation of the provisions of the Arkansas Pharmacy Act, § 17-92-101 et seq.

(2) The attorney employed or retained by the ~~board~~ **department** may make regular reports to the Attorney General of the actions instituted or prosecuted by him or her.

(3) Appeals from the circuit court to the Supreme Court in matters affecting the action of the board may be handled by the office of the Attorney General.

(c) The board is ~~authorized to~~ **may** make reimbursement of the necessary and reasonable travel, board, and lodging expenses of the staff of the board incurred in the performance of their duties.

SECTION 4893. Arkansas Code § 17-93-406(8), concerning the powers and duties of the Arkansas State Board of Athletic Training, is amended to read as follows:

<< AR ST § 17-93-406 >>

(8) To file an annual report of its activities, including the activities of the board, with the Department of ~~Finance and Administration~~ **Health**.

SECTION 4894. Arkansas Code § 17-95-301(f)(2), concerning the creation of the Arkansas State Medical Board, is amended to read as follows:

<< AR ST § 17-95-301 >>

(2) The ~~Executive~~ Director of the Arkansas State Medical Board and the Deputy Director of the Arkansas State Medical Board shall receive such additional salary as may be fixed by the ~~board~~ **Department of Health**.

SECTION 4895. Arkansas Code § 17-95-301(h)(1)(C)(ii), concerning the creation of the Arkansas State Medical Board, is amended to read as follows:

<< AR ST § 17-95-301 >>

(ii) The Division of Pharmacy Services and Drug Control of the Department of Health shall prepare a report for the ~~Governor~~ **Secretary of the Department of Health** based on its findings.

SECTION 4896. Arkansas Code § 17-95-303 is amended to read as follows:

<< AR ST § 17-95-303 >>

17-95-303. Powers and duties.

The Arkansas State Medical Board shall:

(1) Make and adopt all rules, ~~regulations~~, and bylaws not inconsistent with the laws of this state or of the United States and necessary or convenient to perform the duties and to transact the business required by law;

(2) Have authority to promulgate and put into effect such rules ~~and regulations~~ as are necessary to carry out the purposes of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and the intentions expressed therein;

(3)(A)(i) Have authority to **request the Department of Health** employ attorneys to represent the board in all legal matters for a compensation approved by the board.

(ii) Contracts for employment of attorneys shall be filed by the ~~Executive Director of the Arkansas State Medical Board~~ **Secretary of the Department of Health** with the Legislative Council.

(B) The board shall ~~further~~ have authority to request the assistance of the Attorney General and the prosecuting attorneys of Arkansas in such manner as it deems necessary and proper;

(4) Have the authority to employ ~~an executive~~ **a director and a deputy director** **in consultation with the secretary** to carry out the purposes and the mandates of the board ~~and to supervise the other employees of the board~~ ;

(5) Have the authority to employ a medical director, who shall hold a valid license to practice medicine in this state, to evaluate medical issues and to assist in investigations pending before the board;

(6) Have the power and authority to employ such secretarial and administrative assistance as may be necessary to carry out the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and the duties of the board to protect the people of the State of Arkansas;

(7) Have the power and authority to employ one (1) or more inspectors as may be necessary to carry out the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and the duties of the board to protect the people of the State of Arkansas;

(8) Examine, as is provided for by law, all applicants for a license to practice medicine in this state;

(9) Consider and give deference to data, studies, consensus documents, and conclusions issued by the Centers for Disease Control and Prevention or the National Institutes of Health whenever their data, studies, consensus documents, and conclusions are relevant to any decision made pursuant to the board's powers and duties under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.;

(10) (6) Have the power and authority to collect practice data from licensees; and

(11) (7) Promulgate rules limiting the amount of Schedule II narcotics that may be prescribed and dispensed by licensees of the board.

SECTION 4897. Arkansas Code § 17-95-304(a), concerning the inspectors of the Division of Pharmacy Services and Drug Control of the Department of Health, is amended to read as follows:

<< AR ST § 17-95-304 >>

(a)(1) The Arkansas State Medical Board shall utilize ~~as its employees~~ the investigators and inspectors of the Division of Pharmacy Services and Drug Control of the Department of Health.

(2) The Department of Health is directed to make investigators and inspectors available for those purposes for as long as they may conduct investigations and inspections of prescriptions.

SECTION 4898. Arkansas Code § 17-95-304(b)(2), concerning the inspectors of the Division of Pharmacy Services and Drug Control of the Department of Health, is amended to read as follows:

<< AR ST § 17-95-304 >>

(2) The inspectors shall have the duty and authority upon written direction by the ~~Executive~~ Director of the Arkansas State Medical Board to investigate, inspect, and make copies of the records, orders, and prescriptions, wherever located, of all persons licensed by the board in order to determine whether or not the persons have:

(A) Violated the laws of the State of Arkansas or of the United States respecting the prescription and use of narcotics and potentially dangerous drugs;

(B) Practiced their profession in such a way as to endanger the general health and welfare of the public; or

(C) Violated the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

SECTION 4899. Arkansas Code § 17-95-305(b), concerning the disposition of funds of the Arkansas State Medical Board, is amended to read as follows:

<< AR ST § 17-95-305 >>

(b)(1) All moneys received by the board shall be disbursed by the Chair of the Arkansas State Medical Board or the Executive Director of the Arkansas State Medical Board.

(2) ~~The chair or the executive director, or both,~~ **board** shall furnish a surety bond and shall keep a true and faithful account of all moneys received and all moneys expended.

(3) The executive director **chair** shall file annually with the Governor **Secretary of the Department of Health** a report of all financial transactions duly audited by an independent accountant.

SECTION 4900. Arkansas Code § 17-95-310 is repealed.

<< Repealed: AR ST § 17-95-310 >>

~~17-95-310. Medical Director of Arkansas State Medical Board—Qualifications.~~

~~The Medical Director of the Arkansas State Medical Board shall:~~

~~(1) Have been in full-time clinical practice of medicine in direct patient care within one (1) year of filling the position of medical director;~~

~~(2) Have fifteen (15) years of current, continuous full-time medical service immediately before the date of appointment, which shall include, but not be limited to, at least ten (10) years of full-time clinical practice in direct patient care, five (5) years of which shall have been in full-time clinical practice in direct patient care in the State of Arkansas;~~

~~(3) Have not served on the Arkansas State Medical Board within the past five (5) years; and~~

~~(4) Have a comprehensive knowledge of the contemporary, broad-based clinical practice of medicine with experience in direct patient care.~~

SECTION 4901. Arkansas Code § 17-95-409(b)(2), concerning the denial, suspension, or revocation of a license by the Arkansas State Medical Board, is amended to read as follows:

<< AR ST § 17-95-409 >>

(2) Upon notification from the Dean of the College of Medicine of the University of Arkansas for Medical Sciences and the Director **Secretary** of the Department of Health that exigent circumstances warrant a waiver of the suspension, the Arkansas State Medical Board shall reinstate the holder's license.

SECTION 4902. Arkansas Code § 17-96-203(a), concerning payment of expenses and compensation of members of the Arkansas Board of Podiatric Medicine, is amended to read as follows:

<< AR ST § 17-96-203 >>

(a) The Arkansas Board of Podiatric Medicine is empowered to incur whatever expenses it **the board** may deem necessary or expedient in performing its **the board's** functions, ~~and it may employ whatever assistants it may deem necessary or expedient and fix their compensation .~~

SECTION 4903. Arkansas Code § 17-97-204(a), concerning the collection and disposition of fees by the Arkansas Psychology Board, is amended to read as follows:

<< AR ST § 17-97-204 >>

(a) The Arkansas Psychology Board is ~~authorized to~~ **may** establish and collect various fees and penalties for services related to provision of temporary permits, printed materials, handling returned checks, costs incurred in processing delinquent payments, and other reasonable services as may be determined by the board **and the Department of Health is authorized to collect such fees and penalties.**

SECTION 4904. Arkansas Code § 17-98-203(c), concerning the rules and regulations of the State Board of Disease Intervention Specialists, is repealed.

<< AR ST § 17-98-203 >>

~~(e) The board, if moneys are appropriated therefor, may employ and fix the compensation of such assistants, clerks, stenographers, typists, and other employees to serve at the pleasure of the board, and acquire such office space, furniture, supplies, equipment, and other such proper conveniences as may be reasonably necessary for the performance of their duties under this chapter.~~

SECTION 4905. Arkansas Code § 17-100-201(a), concerning the creation of the Board of Examiners in Speech-Language Pathology and Audiology, is amended to read as follows:

<< AR ST § 17-100-201 >>

~~(a) There is established as an independent agency of the executive branch of the government of the State of Arkansas the Board of Examiners in Speech-Language Pathology and Audiology~~ **within the Department of Health.**

SECTION 4906. Arkansas Code § 17-100-204 is amended to read as follows:

<< AR ST § 17-100-204 >>

17-100-204. Officers and employees Director.

(a) The Board of Examiners in Speech-Language Pathology and Audiology may employ and, ~~at its pleasure,~~ discharge, **in consultation with the Secretary for the State Board of Health,** ~~an executive secretary and such officers and employees~~ **a Director of the Board of Examiners in Speech-Language Pathology and Audiology** as may be necessary **to carry out the duties of the board.**

(b) The board shall outline duties and fix compensation of employees **the director** in accordance with law.

(c) The amount of per diem and mileage and expense moneys paid ~~employees of the board~~ **to the director** shall be in accordance with applicable law.

SECTION 4907. Arkansas Code § 17-100-206 is amended to read as follows:

<< AR ST § 17-100-206 >>

17-100-206. Disposition of funds — Reports.

(a) All fees and other funds received by the Board of Examiners in Speech-Language Pathology and Audiology shall be deposited into a bank account in the name of the board in one (1) or more banks in this state and shall be used by the board exclusively for payment **to the Department of Health** of reasonable and necessary salaries, maintenance, and

operating expenses in the performance of duties imposed on the board under the provisions of this chapter **or the payment of the salary of the Director of the Board of Examiners in Speech–Language Pathology and Audiology.**

(b) The board shall report monthly to the **Department of Health and the** Department of Finance and Administration the amount and source of all revenue received by it pursuant to this chapter during the preceding month.

(c) All appropriate expenses incurred by the board in the administration of the provisions of this chapter shall be paid when vouchers relating to such expenses are exhibited as having been approved by the board.

(d)(1) The board shall be financed from income accruing from fees, licenses, and other income collected by the board.

(2) All ~~employee salaries and other~~ expenses, which may include full or partial financing of continuing professional education programs adopted by the board under § 17–100–306, **and the salary of the director** shall be paid as budgeted after budgets are approved or within the limitations of any appropriation for that purpose that may be included in any appropriate Arkansas appropriations law.

(3) All employee salary reimbursement amounts shall be determined by the Department of Health and shall be paid as budgeted after budgets are approved or within the limitations of any appropriation for that purpose that may be included in any appropriate Arkansas appropriations law.

(e) The board will have the authority to establish and change fees for application, examination, renewal, inactivation, reactivation, and delinquency purposes.

SECTION 4908. Arkansas Code § 17–102–206(a)(1), concerning the Arkansas State Board of Acupuncture and Related Techniques, is amended to read as follows:

<< AR ST § 17–102–206 >>

(a)(1) The Arkansas State Board of Acupuncture and Related Techniques is empowered to incur whatever expenses it may deem necessary or expedient in performing its functions. ~~It may employ or engage whatever personnel, legal counsel, independent contractors, or assistants it may deem necessary or expedient therefor and fix their compensation. However, no employee of the Arkansas State Board of Acupuncture and Related Techniques shall have any financial interest in the occupation of acupuncture and related techniques.~~

SECTION 4909. Arkansas Code § 17–103–202(e), concerning the organization and function of the Arkansas Social Work Licensing Board, is amended to read as follows:

<< AR ST § 17–103–202 >>

(e) The board shall ~~may~~ employ necessary personnel **a Director of the Arkansas Social Work Licensing Board, in consultation with the Secretary of the Department of Health,** for the performance of its functions and fix the compensation of the personnel ~~director~~ within the limits of funds available to the board.

SECTION 4910. Arkansas Code § 17–103–204(a), concerning the disposition of the funds of the Social Work Licensing Fund, is amended to read as follows:

<< AR ST § 17–103–204 >>

(a) The ~~Executive~~ Director of the Arkansas Social Work Licensing Board or his or her designee shall receive and account for all money derived under the provisions of this chapter and shall pay the money to the Treasurer of State, who shall keep the money in a separate fund to be known as the "Social Work Licensing Fund".

SECTION 4911. Arkansas Code § 17-103-204(d), concerning the disposition of the funds of the Social Work Licensing Fund, is amended to read as follows:

<< AR ST § 17-103-204 >>

(d) The ~~executive~~ director shall be bonded to handle the finances of the Arkansas Social Work Licensing Board in compliance with state rules.

SECTION 4912. Arkansas Code § 17-106-104(a)(1)(B), concerning the Medical Ionizing Radiation Licensure Committee, is amended to read as follows:

<< AR ST § 17-106-104 >>

(B) One (1) member shall be the ~~Director~~ **Secretary** of the Department of Health or his or her designee.

SECTION 4913. Arkansas Code § 17-106-105(a)(1)(A), concerning the duties and powers of the State Board of Health, is amended to read as follows:

<< AR ST § 17-106-105 >>

(A)(i) Incur whatever expenses it **the board** may deem necessary or expedient in performing its **the board's** duties under the provisions of this chapter.

(ii) ~~It~~ **The board, pursuant to the administration of the Department of Health,** may employ or engage whatever personnel, legal counsel, independent contractors, or assistants it may deem necessary or expedient and fix their compensation;

SECTION 4914. Arkansas Code § 17-107-202(e), concerning the organization and proceedings of the Arkansas Orthotics, Prosthetics, and Pedorthics Advisory Board, is amended to read as follows:

<< AR ST § 17-107-202 >>

(e) The ~~Division of Medical Services of the Department of Human Services~~ **Department of Health** shall provide staff support for the board.

SECTION 4915. Arkansas Code § 19-5-307(a)(2), concerning the Public Health Fund, is amended to read as follows:

<< AR ST § 19-5-307 >>

(2) The ~~Director~~ **Secretary** of the Department of Health;

SECTION 4916. Arkansas Code § 19–12–113(b), resulting from Initiated Act 1 of 2000 and concerning the establishment and administration of prevention and cessation programs, is amended to read as follows:

<< AR ST § 19–12–113 >>

(b) The Department of Health shall be responsible for developing, integrating, and monitoring tobacco prevention and cessation programs funded under this chapter and shall provide administrative oversight and management, including, but not limited to implementing performance based measures. The Department of Health shall have authority to award grants and allocate money appropriated to implement the tobacco prevention and cessation program mandated under this chapter. The Department of Health may contract with those entities necessary to fully implement the tobacco prevention and cessation initiatives mandated under this chapter. Within thirty (30) days of receipt of moneys into the Prevention and Cessation Program Account, fifteen percent (15%) of those moneys shall be deposited into a special account within the prevention and cessation account at the Department of Health to be expended for tobacco prevention and cessation in minority communities as directed by the ~~Director~~ **Secretary** of the Department of Health in consultation with the Chancellor of the University of Arkansas at Pine Bluff, the President of the Arkansas Medical, Dental, and Pharmaceutical Association, and the League of United Latin American Citizens.

SECTION 4917. Arkansas Code § 19–12–113(e)(1), resulting from Initiated Act 1 of 2000 and concerning the establishment and administration of prevention and cessation programs, is amended to read as follows:

<< AR ST § 19–12–113 >>

(1) The Advisory Committee shall consist of eighteen (18) members; one (1) member to be appointed by the President Pro Tempore of the Senate, one (1) member to be appointed by the Speaker of the House of Representatives, and sixteen (16) members to be appointed by the Governor subject to confirmation by the Senate. The Governor shall consult each of the following designated groups before making an appointment, and shall consist of the following: one (1) member appointed to represent the Arkansas Medical Society, **Inc.**; one (1) member shall represent the Arkansas Hospital Association, **Inc.**; one (1) member shall represent the American Cancer Society; one (1) member shall represent the American Heart Association; one (1) member shall represent the American Lung Association; one (1) member shall represent the Coalition for a Tobacco-Free Arkansas; one (1) member shall represent Arkansans for Drug Free Youth; one (1) member shall represent the ~~Department of Education~~ **Division of Elementary and Secondary Education**; one (1) member shall represent the Arkansas Minority Health Commission; one (1) member shall represent the Arkansas Center for Health Improvement; one (1) member shall represent the Arkansas Association of Area Agencies on Aging; one (1) member shall represent the Arkansas Nurses Association; one (1) member shall represent the University of Arkansas Cooperative Extension Service; one (1) member shall represent the University of Arkansas at Pine Bluff; one (1) member shall represent the League of United Latin American Citizens; and one (1) member shall represent the Arkansas Medical, Dental, and Pharmaceutical Association, **Inc.** The Executive Committee of Arkansas Students Working Against Tobacco shall serve as youth advisors to this Advisory Committee. All members of this committee shall be residents of the State of Arkansas.

SECTION 4918. Arkansas Code § 19–12–117 resulting from Initiated Act 1 of 2000 is amended to read as follows:

<< AR ST § 19–12–117 >>

19–12–117. Establishment of the Arkansas Tobacco Settlement Commission.

(a) There is hereby created and recognized the Arkansas Tobacco Settlement Commission, which shall be composed of the following:

(1) The ~~Executive~~ Director of the Arkansas Economic Development Commission or his or her designee;

- (2) The ~~Director of the Department of Education~~ **Commissioner of Elementary and Secondary Education** or his or her designee;
- (3) The Director of the ~~Department~~ **Division** of Higher Education or his or her designee;
- (4) The ~~Director~~ **Secretary** of the Department of Human Services or his or her designee;
- (5) The ~~Director~~ **Secretary** of the Department of Health or his or her designee;
- (6) A healthcare professional to be selected by the President Pro Tempore of the Senate;
- (7) A healthcare professional to be selected by the Speaker of the House of Representatives;
- (8) A citizen selected by the Governor; and
- (9) A citizen selected by the Attorney General.

(b)(1) The four (4) members of the commission who are not on the commission by virtue of being a director of an agency, will serve four-year terms. The terms shall commence on October 1 of each year. Commission members are limited to serving two (2) consecutive four-year terms.

(2) Members of the commission shall not be entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25–16–902, to be paid from funds appropriated for this program.

(c) Members appointed to the commission and the organizations they represent shall make full disclosure of the members' participation on the commission when applying for any grant or contract funded by this chapter.

(d) All members appointed to the commission shall make full and public disclosure of any past or present association to the tobacco industry.

(e) The commission shall, within ninety (90) days of appointment, hold a meeting and elect from its membership a chair for a term set by the commission. The commission is authorized to adopt bylaws.

(f) The commission shall meet at least quarterly. However, special meetings of the commission may be called at any time at the pleasure of the chair or pursuant to the bylaws of the commission.

(g) The commission is authorized to hire an independent third party with appropriate experience in health, preventive resources, health statistics, and evaluation expertise to perform monitoring and evaluation of program expenditures made from the program accounts pursuant to this chapter. Such monitoring and evaluation shall be performed in accordance with § 19–12–118, and the third party retained to perform such services shall prepare a biennial report to be delivered to the General Assembly and the ~~Governor~~ **Secretary of the Department of Health** by each August 1 preceding a general session of the General Assembly. The report shall be accompanied by a recommendation from the commission as to the continued funding for each program.

(h) ~~The commission is authorized to hire such staff as it may reasonably need to carry out the duties described in this chapter.~~ The costs and expenses of the monitoring and evaluation program, **as administered by the Department of Health**, as well as the salaries, costs, and expenses of staff shall be paid from the Arkansas Tobacco Settlement Commission Fund established pursuant to § 19–12–108.

(i) If the deposits into the Arkansas Tobacco Settlement Commission Fund exceed the amount necessary to pay the costs and expenses described in subsection (h) of this section, then the commission is authorized to make grants as follows:

- (1) Those organizations eligible to receive grants are nonprofit and ~~community-based~~ **community-based**;
- (2) Grant criteria shall be established based upon the following principles:
 - (A) All funds should be used to improve and optimize the health of Arkansans;
 - (B) Funds should be spent on long-term projects that improve the health of Arkansans;
 - (C) Future tobacco-related illness and ~~health-care~~ **healthcare** costs in Arkansas should be minimized through this opportunity; and
 - (D) Funds should be invested in solutions that work effectively and efficiently in Arkansas; and
- (3) Grant awards shall be restricted in amounts up to fifty- thousand dollars (\$50,000) per year for each eligible organization.

SECTION 4919. Arkansas Code § 20–2–103(a)(1), concerning the powers and duties of the Arkansas Minority Health Commission, is amended to read as follows:

<< AR ST § 20–2–103 >>

- (1) Establish the commission as the comprehensive ~~agency~~ **commission** in this state for:
 - (A) Gathering and analyzing information regarding disparities in health and health care and access to health and healthcare services in this state;
 - (B) Statewide educational programming regarding disparities in health and health care and equal access to health and healthcare services; and
 - (C) Coordinating events regarding disparities in health and health care and access to health and healthcare services;

SECTION 4920. Arkansas Code § 20–2–103(a)(2)(B), concerning the powers and duties of the Arkansas Minority Health Commission, is amended to read as follows:

<< AR ST § 20–2–103 >>

- (B) The following health and healthcare-related state ~~agencies~~ **entities** and divisions of state ~~agencies~~ **entities** shall collaborate with the commission to achieve healthcare equity in the state **State** of Arkansas:
 - (i) The Department of Health;
 - (ii) The Department of Human Services;
 - (iii) The ~~Arkansas Department~~ **Division** of Environmental Quality;
 - (iv) The Fay W. Boozman College of Public Health of the University of Arkansas for Medical Sciences; and
 - (v) The Arkansas Center for Health Improvement.

SECTION 4921. Arkansas Code § 20–2–103(a)(5), concerning the powers and duties of the Arkansas Minority Health Commission, is amended to read as follows:

<< AR ST § 20–2–103 >>

(5) Make recommendations to the relevant agencies, to the Governor **Secretary of the Department of Health**, and to the General Assembly for improving the delivery of and access to health services for minorities;

SECTION 4922. Arkansas Code § 20–2–107 is amended to read as follows:

<< AR ST § 20–2–107 >>

20–2–107. Report on health disparities.

On or before October 1 each year, the Arkansas Minority Health Commission shall report to the Governor **Secretary of the Department of Health**, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, 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 without limitation:

- (1) Summarizing the previous year's work under § 20–2–103(a)(5) and (6);
- (2) Describing reductions in disparities in health and health care in this state; and
- (3) Outlining plans for continuing and expanding in the coming year the program to reduce disparities in health and health care in this state.

SECTION 4923. Arkansas Code § 20–7–102(a)(17), concerning the members of the State Board of Health, is amended to read as follows:

<< AR ST § 20–7–102 >>

(17) One (1) member shall be the Director **Secretary** of the Department of Health.

SECTION 4924. Arkansas Code § 20–7–103 is amended to read as follows:

<< AR ST § 20–7–103 >>

20–7–103. Members — Officers.

- (a) The members of the State Board of Health shall elect one (1) of the members as president.
- (b)(1) The State Board of Health shall nominate to the Governor a Director of the Department of Health.
 - (2) **(A)** The Governor shall appoint the director who shall serve at the pleasure of the Governor.
 - (B) The director shall report to the Secretary of the Department of Health.**
 - (C) The Secretary of the Department of Health may serve as the Director of the Department of Health if the Governor determines all statutory requirements are fulfilled.**
- (3) **(2)** The director shall **may**:
 - (A) Serve as the State Health Officer;

(B) Serve as the Secretary for the State Board of Health and shall have all the powers of a member of the State Board of Health **but shall not sit as a member of the State Board of Health;**

(C)(i)(a) Be a licensed medical doctor who is a graduate of a school of medicine recognized by the Arkansas State Medical Board;

(b) Hold a graduate degree in public health or a graduate degree in a recognized public health discipline from an accredited college or university or have equivalent knowledge and experience in public health as determined by the State Board of Health **Secretary of the Department of Health;** and

(c) Have experience in the practice of public health and in leadership and management, the sufficiency of which shall be determined by the State Board of Health **Secretary of the Department of Health;** or

(ii) Hold a doctoral degree in public health or a doctoral degree in a recognized public health discipline from an accredited college or university with at least five (5) years of experience in the practice of public health and at least ten (10) years of experience in the leadership and management of a large complex organization, the sufficiency of which shall be determined by the State Board of Health **Secretary of the Department of Health.**

SECTION 4925. Arkansas Code § 20-7-106 is amended to read as follows:

<< AR ST § 20-7-106 >>

20-7-106. Office.

The office of the State Board of Health shall be located in Little Rock, and the board shall be furnished with all necessary equipment and supplies, including laboratory supplies, books, stationery, blanks, furniture, etc., as are provided other officers of the state and as are necessary for carrying on the work of the board, and the office is to be provided in a suitable building to be designated by the ~~Director~~ **Secretary** of the Department of Health.

SECTION 4926. Arkansas Code § 20-7-107 is amended to read as follows:

<< AR ST § 20-7-107 >>

20-7-107. Appointment of assistant director.

The ~~Director~~ **Secretary** of the Department of Health may appoint and employ an assistant director who shall be knowledgeable in the field of public health and whose duty it shall be to assist the director in the general supervision of the affairs of his or her office and in the enforcement of quarantine and sanitation throughout the state.

SECTION 4927. Arkansas Code § 20-7-108 is amended to read as follows:

<< AR ST § 20-7-108 >>

20-7-108. Engagement of certain personnel.

From time to time, the State Board of Health **The Department of Health** may engage suitable persons to render sanitary service, to make or supervise practical and scientific investigations and examinations requiring expert skill, and to prepare plans and to report relative to sanitary service.

SECTION 4928. Arkansas Code § 20–7–111(c), concerning the administration of certain federal acts by the State Board of Health, is amended to read as follows:

<< AR ST § 20–7–111 >>

(c)(1) The ~~Director~~ **Secretary** of the Department of Health shall act as executive officer ~~of the board~~ for the purpose of administering the federal acts and this section.

(2) The ~~director~~ **secretary** shall carry into effect such rules and regulations as the federal authorities and the board may adopt pursuant to the federal acts and this section.

SECTION 4929. Arkansas Code § 20–7–114(a)(2), concerning the establishment of a public health laboratory by the State Board of Health, is amended to read as follows:

<< AR ST § 20–7–114 >>

(2) The public health laboratory shall be established and maintained at the Department of Health under the direct supervision of the ~~Director~~ **Secretary** of the Department of Health or his or her authorized representatives.

SECTION 4930. Arkansas Code § 20–7–117(a), concerning the creation of the State Hospice Office, is amended to read as follows:

<< AR ST § 20–7–117 >>

(a) There is created within the Department of Health a State Hospice Office to be administered in a division of the department to be designated by the ~~Director~~ **Secretary** of the Department of Health.

SECTION 4931. Arkansas Code § 20–7–121(a), concerning the annual report of the State Board of Health, is amended to read as follows:

<< AR ST § 20–7–121 >>

(a) It shall be the duty of the State Board of Health to make an annual written report through the ~~Director~~ **Secretary** of the Department of Health to the Governor on or before January 1 of each year.

SECTION 4932. Arkansas Code § 20–7–133(b)(1), concerning the creation of the Child Health Advisory Committee, is amended to read as follows:

<< AR ST § 20–7–133 >>

(b)(1) The ~~Director~~ **Secretary** of the Department of Health shall appoint:

(A) One (1) member to represent the Department of Health;

(B) One (1) member to represent the Arkansas Academy of Nutrition and Dietetics;

(C) One (1) member to represent the American Academy of Pediatrics, Arkansas Chapter;

(D) One (1) member to represent the Arkansas Academy of Family Practice;

(E) One (1) member to represent the Arkansas Association for Health, Physical Education, Recreation and Dance;

(F) One (1) member to represent jointly the American Heart Association, the American Cancer Society, and the American Lung Association;

(G) One (1) member to represent the Fay W. Boozman College of Public Health of the University of Arkansas for Medical Sciences;

(H) One (1) member to represent the Arkansas Center for Health Improvement;

(I) One (1) member to represent the Arkansas Advocates for Children and Families;

(J) One (1) member to represent the University of Arkansas Cooperative Extension Service; and

(K) One (1) member to represent the Office of Minority Health and Health Disparities of the Department of Health.

SECTION 4933. The introductory language of Arkansas Code § 20–7–133(b)(2), concerning the creation of the Child Health Advisory Committee, is amended to read as follows:

<< AR ST § 20–7–133 >>

(2) The Commissioner of **Elementary and Secondary** Education shall appoint:

SECTION 4934. Arkansas Code § 20–7–133(b)(2)(A), concerning the creation of the Child Health Advisory Committee, is amended to read as follows:

<< AR ST § 20–7–133 >>

(A) One (1) member to represent the ~~Department of Education~~ **Division of Elementary and Secondary Education**;

SECTION 4935. Arkansas Code § 20–7–202(4), concerning the definition of “director” under the Arkansas Health Department Building and Local Grant Act, is repealed.

<< AR ST § 20–7–202 >>

(4) ~~“Director” or “State Health Officer” means the Director of the Department of Health;~~

SECTION 4936. Arkansas Code § 20–7–203 is amended to read as follows:

<< AR ST § 20–7–203 >>

20–7–203. Disposition of funds.

(a) The ~~Director~~ **Secretary** of the Department of Health may construct or acquire such facilities and property as are necessary for the provision of current and future requirements for the Department of Health.

(b) Notwithstanding other provisions of this subchapter, the ~~director~~ **secretary**, with the approval of the State Board of Health, may use any unobligated funds in the State Health Department Building and Local Grant Trust Fund in an amount not to exceed six hundred fifty thousand dollars (\$650,000) to construct or acquire any land, building, structure,

or other property, real, personal, or mixed, and any expenses incidental thereto which are deemed appropriate for the provision of current and future requirements for the department.

(c) With the approval of the board, the ~~director~~ **secretary** may lease, sublease, or otherwise negotiate for the use of any space acquired or constructed under this subchapter to other governmental and nongovernmental entities. Revenues derived from any such lease, sublease, or other arrangement shall be deposited into the Public Health Fund.

(d) Neither the ~~director~~ **secretary** nor any member of the board shall be personally liable for any obligation or action undertaken in connection therewith or for any damages sustained by anyone with respect to any obligations or actions unless he or she shall have acted with a corrupt intent.

SECTION 4937. Arkansas Code § 20-7-204(c), concerning the State Health Department Building and Local Grant Trust Fund, is amended to read as follows:

<< AR ST § 20-7-204 >>

(c) The ~~Director~~ **Secretary** of the Department of Health shall be the disbursing agent and executive officer for the fund.

SECTION 4938. Arkansas Code § 20-7-303(a) and (b), concerning the collection and dissemination of health data, are amended to read as follows:

<< AR ST § 20-7-303 >>

(a) With the approval of the State Board of Health, the ~~Director~~ **Secretary** of the Department of Health shall compile and disseminate health data collected by the Department of Health.

(b)(1) In consultation with advisory groups appointed by the ~~director~~ **secretary** with representation from hospitals, outpatient surgery centers, health profession licensing boards, and other state agencies, the department should:

(A) Identify the most practical methods to collect, transmit, and share required health data as described in § 20-7-304;

(B) Utilize, wherever practical, existing administrative databases and modalities of data collection to provide the required data;

(C) Develop standards of accuracy, timeliness, economy, and efficiency for the provision of the data; and

(D) Ensure confidentiality of data by enforcing appropriate rules and regulations.

(2) To maximize limited resources and to prevent duplication of effort, the department may consider, when appropriate, contracting with private entities for the collection of data as set forth in this section subject to this subchapter.

SECTION 4939. Arkansas Code § 20-7-303(c)(2), concerning the collection and dissemination of health data, is amended to read as follows:

<< AR ST § 20-7-303 >>

(2) If health data are already reported to another organization or governmental agency in the same manner, form, and content or in a manner, form, and content acceptable to the department, the ~~director~~ **secretary** may obtain a copy of the data from the organization or agency, and no duplicate report need be submitted by the organization.

SECTION 4940. Arkansas Code § 20–7–304 is amended to read as follows:

<< AR ST § 20–7–304 >>

20–7–304. Release of health data.

The ~~Director~~ **Secretary** of the Department of Health may release data collected under this subchapter, except that data released shall not include any information which identifies or could be used to identify any individual patient, provider, institution, or health plan except as provided in § 20–7–305.

SECTION 4941. Arkansas Code § 20–7–306(a), concerning reports and assistance by the Department of Health under the State Health Data Clearinghouse Act, is amended to read as follows:

<< AR ST § 20–7–306 >>

(a) The ~~Director~~ **Secretary** of the Department of Health shall prepare and submit a biennial report to the Governor and the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof.

SECTION 4942. Arkansas Code § 20–7–403(5), concerning the definition of “construct” under the Combating Prescription Drug Abuse Act, is amended to read as follows:

<< AR ST § 20–7–403 >>

(5) “Construct” means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements, or other property, whether real, personal, or mixed, useful in connection with the expansion, by any method and manner as may be authorized by law, and in the case of the acquisition of equipment and other property of a medical, laboratory, or technical nature, by any method as the board or the ~~Director~~ **Secretary** of the Department of Health determines to be necessary or desirable to accomplish the power, purposes, and authorities set forth in this subchapter and without regard to the provisions of other laws pertaining to the construction and acquisition of property by state agencies;

SECTION 4943. Arkansas Code § 20–7–403(7), concerning the definition of “Director” under the Combating Prescription Drug Abuse Act, is repealed.

<< AR ST § 20–7–403 >>

(7) “Director” means the ~~Director of the Department of Health~~;

SECTION 4944. Arkansas Code § 20–7–404(b) and (c), concerning the approval of construction of a laboratory under the Combating Prescription Drug Abuse Act, are amended to read as follows:

<< AR ST § 20–7–404 >>

(b) Subject to the approval of the board, the plans, specifications, and estimates of cost for the laboratory and renovation of the building shall be developed by the ~~Director~~ **Secretary** of the Department of Health, and the ~~director~~ **secretary** may employ architects and other like professional and technical assistance as determined to be necessary for the construction of the laboratory and renovation of the building.

(c) The board and the ~~director~~ **secretary** may take such action as may be appropriate for the construction of the laboratory and renovation of the building to accomplish the purposes of this subchapter and may engage legal, technical, and other assistance as necessary.

SECTION 4945. Arkansas Code § 20–7–405(d), concerning the financing of construction and renovation of a laboratory under the Combating Prescription Drug Abuse Act, is amended to read as follows:

<< AR ST § 20–7–405 >>

(d) The board and the ~~Director~~ **Secretary** of the Department of Health may execute and deliver agreements, instruments, and other undertakings and writings and take such action as may be appropriate to evidence the loan and the security for the loan and to carry out this subchapter.

SECTION 4946. Arkansas Code § 20–7–408(a)(1), concerning the disposition of fees under the Combating Prescription Drug Abuse Act, is amended to read as follows:

<< AR ST § 20–7–408 >>

(a)(1) Except as set forth in this subchapter, all fee revenues shall be treated as cash funds and shall not be deposited into the State Treasury, but shall be deposited as and when received into a bank or banks approved by the State Board of Health or the ~~Director~~ **Secretary** of the Department of Health in an account or accounts of the board designated the “State Board of Health Laboratory Revenue Fund”.

SECTION 4947. Arkansas Code § 20–7–408(c)(2), concerning the disposition of fees under the Combating Prescription Drug Abuse Act, is amended to read as follows:

<< AR ST § 20–7–408 >>

(2) All transfers from the State Board of Health Laboratory Revenue Fund and the State Board of Health Public Health Laboratory Construction Fund shall be made by or at the direction of the ~~director~~ **secretary**.

SECTION 4948. Arkansas Code § 20–7–408(c)(3)(A), concerning the disposition of fees under the Combating Prescription Drug Abuse Act, is amended to read as follows:

<< AR ST § 20–7–408 >>

(A) The ~~director~~ **secretary**; or

SECTION 4949. Arkansas Code § 20–7–409 is amended to read as follows:

<< AR ST § 20–7–409 >>

20-7-409. State Board of Health Public Health Laboratory Construction Fund.

The proceeds of the loan other than amounts required to establish reserves, to pay interest on the loan for a period not to exceed one (1) year, or to pay costs of the loan and of issuing bonds, all of which shall be set forth in written directions executed by the ~~Director~~ **Secretary** of the Department of Health, shall be deposited as cash funds into an account of the State Board of Health designated the "State Board of Health Public Health Laboratory Construction Fund" and disbursed by the ~~director~~ **secretary** for the construction of the expansion.

SECTION 4950. Arkansas Code § 20-7-410(a), concerning investment of funds in the State Board of Health Public Health Laboratory Revenue Fund and the State Board of Health Public Health Laboratory Construction Fund, is amended to read as follows:

<< AR ST § 20-7-410 >>

(a) All moneys held at any time in the State Board of Health Laboratory Revenue Fund and the State Board of Health Public Health Laboratory Construction Fund shall be invested and reinvested to the extent feasible, as directed by the ~~Director~~ **Secretary** of the Department of Health.

SECTION 4951. Arkansas Code § 20-7-412 is amended to read as follows:

<< AR ST § 20-7-412 >>

20-7-412. Limitations on liability.

Neither the ~~Director~~ **Secretary** of the Department of Health nor any member of the State Board of Health shall be personally liable on the loan or on account of any of the obligations or actions undertaken in connection with the loan, or for any damages sustained by anyone with respect to the obligations or actions, unless he or she acted with a corrupt intent.

SECTION 4952. Arkansas Code § 20-7-604(d)(2)(D), concerning the requirements for the Prescription Drug Monitoring Program, is amended to read as follows:

<< AR ST § 20-7-604 >>

(D) The State Board of Health may amend, by rule, the exemptions listed in subdivision (d)(2)(C) of this section upon a recommendation from the ~~Director~~ **Secretary** of the Department of Health and a showing that the exemption or lack of exemption is unnecessarily burdensome or has created a hardship.

SECTION 4953. Arkansas Code § 20-7-607(a)(1)(A)(i), concerning providing Prescription Drug Monitoring Program information, is amended to read as follows:

<< AR ST § 20-7-607 >>

(a)(1)(A)(i) The Department of Health shall review the Prescription Drug Monitoring Program information, including without limitation a review to identify information that appears to indicate whether a person is obtaining prescriptions in a manner that may represent misuse or abuse of controlled substances based on prescribing criteria determined by the ~~Director~~ **Secretary** of the Department of Health upon consultation with the Prescription Drug Monitoring Program Advisory Committee.

SECTION 4954. Arkansas Code § 20–7–614(b), concerning the effective date of the Prescription Drug Monitoring Program, is amended to read as follows:

<< AR ST § 20–7–614 >>

(b) The ~~Director~~ **Secretary** of the Department of Health may suspend operation of the program if adequate funding under § 20–7–610 ceases.

SECTION 4955. Arkansas Code § 20–8–104 is amended to read as follows:

<< AR ST § 20–8–104 >>

20–8–104. Health Services Permit Agency — Powers and duties.

(a) There is created and established the Health Services Permit Agency, which shall be ~~an independent agency~~ under the supervision and control of the ~~Governor~~ **Department of Health**.

(b) The agency, **under the administration of the Department of Health**, shall possess and exercise such duties and powers as necessary to implement the policy and procedures adopted by the Health Services Permit Commission.

(c) The agency, **under the administration of the Department of Health**, shall review all applications for permits of approval and approve or deny the application within ninety (90) days from the date the application is deemed complete and submitted for review.

(d) The State of Arkansas shall not participate in the capital expenditures review program, otherwise known as the 1122 Program, unless it becomes mandatory for continuation in federal programs authorized under Title V of the Social Security Act, 42 U.S.C. § 701 et seq., Title XIV of the Social Security Act, 42 U.S.C. § 1351 et seq., and Title XVII of the Social Security Act, 42 U.S.C. § 1391 et seq., for all states.

(e) The agency, **under the administration of the Department of Health**, shall assist the commission in the performance of its duties under this subchapter.

SECTION 4956. Arkansas Code § 20–8–105 is amended to read as follows:

<< AR ST § 20–8–105 >>

20–8–105. Director.

(a) There shall be a Director of the Health Services Permit Agency, who shall be the executive head of the Health Services Permit Agency.

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

(c) **The director shall report to the Secretary of the Department of Health.**

SECTION 4957. Arkansas Code § 20–8–108 is amended to read as follows:

<< AR ST § 20–8–108 >>

20–8–108. Fees and fines.

All fees and fines collected under this subchapter shall be deposited into the Miscellaneous Agencies Fund Account to be used exclusively for the maintenance and operation of the Health Services Permit Agency, **including any agreements to reimburse the Department of Health for costs associated with the operation of the Health Services Permit Agency.**

SECTION 4958. Arkansas Code § 20–8–110(g), concerning the collection and dissemination of health data, is amended to read as follows:

<< AR ST § 20–8–110 >>

(g) The director ~~Secretary of the Department of Health~~ shall prescribe such rules ~~and regulations~~ as may be necessary to carry out the purpose of this section.

SECTION 4959. Arkansas Code § 20–8–110(h)(2)(A), concerning the collection and dissemination of health data, is amended to read as follows:

<< AR ST § 20–8–110 >>

(2)(A) The director shall prepare an annual report of the Health Services Permit Agency's findings and submit the report to the ~~Governor~~ **Secretary of the Department of Health**, the General Assembly, and the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof.

SECTION 4960. Arkansas Code § 20–8–203(1)(G), concerning the powers and duties of the Arkansas Spinal Cord Commission, is amended to read as follows:

<< AR ST § 20–8–203 >>

(G) Provide an annual report to the ~~Governor~~ **Secretary of the Department of Health**, to the General Assembly, and to the public documenting areas of success, unresolved problems, and overall cost-benefit analyses of expenditures from the various sources;

SECTION 4961. Arkansas Code § 20–8–505(b)(1)(E), concerning the creation and members of the Arkansas Commission for the Newborn Umbilical Cord Blood Initiative, is amended to read as follows:

<< AR ST § 20–8–505 >>

(E) The ~~Director~~ **Secretary** of the Department of Health or his or her designee.

SECTION 4962. Arkansas Code § 20–8–506(a)(9), concerning the powers and duties of the Arkansas Commission for the Newborn Umbilical Cord Blood Initiative, is amended to read as follows:

<< AR ST § 20–8–506 >>

(9) If funds are available, **request the Department of Health to** employ staff and enter into contracts necessary to implement this subchapter, **and reimburse the Department of Health for the cost of implementing this subchapter;** and

SECTION 4963. Arkansas Code Title 20, Chapter 8, Subchapter 6, is repealed as the Alzheimer's Advisory Council expired on September 30, 2017.

Subchapter 6 — Alzheimer's Advisory Council

<< Repealed: AR ST § 20-8-601 >>

~~20-8-601. Findings:~~

~~(a) The General Assembly finds that:~~

- ~~(1) Alzheimer's disease is a progressive and fatal brain disease that destroys brain cells and causes problems with memory, thinking, and behavior;~~
- ~~(2) More than five million four hundred thousand (5,400,000) Americans now have Alzheimer's disease;~~
- ~~(3) Alzheimer's disease is the most common form of dementia and is the sixth leading cause of death in the United States; and~~
- ~~(4) No cure exists for Alzheimer's disease, but treatments for symptoms used in conjunction with appropriate services and support can improve the quality of life for those living with the disease.~~

~~(b) This section shall expire on September 30, 2017.~~

<< Repealed: AR ST § 20-8-602 >>

~~20-8-602. Alzheimer's Advisory Council — Creation — Membership:~~

~~(a) There is created the Alzheimer's Advisory Council, to consist of twenty-three (23) members as follows:~~

~~(1) Five (5) members appointed by the Speaker of the House of Representatives as follows:~~

- ~~(A) Two (2) members of the House of Representatives;~~
- ~~(B) One (1) member who has been diagnosed with Alzheimer's disease;~~
- ~~(C) One (1) member to represent the healthcare provider community; and~~
- ~~(D) One (1) member to represent the adult day services industry;~~

~~(2) Five (5) members appointed by the President Pro Tempore of the Senate as follows:~~

- ~~(A) Two (2) members of the Senate;~~
- ~~(B) One (1) member who is a paid caregiver of a person with Alzheimer's disease;~~
- ~~(C) One (1) member to represent the assisted living industry; and~~
- ~~(D) One (1) member who is a scientist who specializes in Alzheimer's disease research;~~

~~(3) Four (4) members appointed by the Governor as follows:~~

- ~~(A) One (1) member who is a physician caring for persons diagnosed with Alzheimer's disease;~~

~~(B) One (1) member to represent the nursing facility industry;~~

~~(C) One (1) member who is a person active in the state chapter of the Alzheimer's Association; and~~

~~(D) One (1) member who is a person active in the Alzheimer's Arkansas Programs and Services; and~~

~~(4) Nine (9) members as follows:~~

~~(A) The Director of the Department of Health or his or her designee;~~

~~(B) The Director of the Department of Human Services or his or her designee;~~

~~(C) The Director of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services or his or her designee;~~

~~(D) The Director of the Arkansas Center for Health Improvement or his or her designee;~~

~~(E) The Director of the Department of Workforce Services or his or her designee; and~~

~~(F) Four (4) members appointed by the state chapter of the Alzheimer's Association to represent Arkansas families that have been affected by Alzheimer's disease.~~

~~(b) Members of the council shall be appointed by September 1, 2011.~~

~~(c)(1) Members of the council shall serve at the pleasure of their appointing authorities.~~

~~(2) A vacancy on the council shall be filled by the original appointing authority.~~

~~(d)(1) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a cochair from among the members of the council.~~

~~(2) The cochairs shall jointly call the first meeting of the council.~~

~~(e)(1) A majority of the members of the council shall constitute a quorum.~~

~~(2) A majority vote of the members present is required for any action of the council.~~

~~(f) Council meetings shall be held in Pulaski County, Arkansas, and at other locations in the state as the council shall deem necessary.~~

~~(g) The Bureau of Legislative Research shall provide staff support to the council as necessary to assist the council in the performance of its duties.~~

~~(h) Legislative members of the council shall be reimbursed for expenses and per diem at the same rate and from the same source as provided by law for members of the General Assembly attending meetings of the interim committees.~~

~~(i) This section shall expire on September 30, 2017.~~

<< Repealed: AR ST § 20-8-603 >>

20-8-603. Duties.

(a) ~~The Alzheimer's Advisory Council shall:~~

~~(1) Assess the current and future impact of Alzheimer's disease and other types of dementia on the residents of the State of Arkansas;~~

~~(2) Examine the existing industries, services, and resources addressing the needs of persons living with Alzheimer's disease, their families, and caregivers; and~~

~~(3) Develop a strategy to mobilize a state response to the public health crisis created by Alzheimer's disease and other types of dementia.~~

(b) ~~This section shall expire on September 30, 2017.~~

<< Repealed: AR ST § 20-8-604 >>

~~20-8-604. Reports.~~

~~(a) The Alzheimer's Advisory Council shall present a draft of assessments and recommendations for meeting the Alzheimer's disease needs in the State of Arkansas to the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor on or before October 1 of each even-numbered year.~~

(b) ~~This section shall expire on September 30, 2017.~~

SECTION 4964. Arkansas Code § 20-8-702(b)(1)(I), concerning the Palliative Care and Quality of Life Interdisciplinary Task Force, is amended to read as follows:

<< AR ST § 20-8-702 >>

(I) One (1) member, **who is appointed** in consultation with the Surgeon-General **Secretary of the Department of Health**, who is a palliative care professional with expertise in the following knowledge areas that may include without limitation:

(i) Interdisciplinary palliative care;

(ii) Medical, nursing, social work, pharmacy, or spiritual services;

(iii) Psychosocial issues involved in caregiving for patient and family caregivers or their advocates; and

(iv) Palliative care perspectives and challenges across multiple settings, including inpatient, outpatient, and community settings, and across pediatric, youth, adult, and geriatric populations;

SECTION 4965. Arkansas Code § 20-8-702(b)(2)(B), concerning the Palliative Care and Quality of Life Interdisciplinary Task Force, is amended to read as follows:

<< AR ST § 20-8-702 >>

(B) One (1) member, in consultation with the **Arkansas** Surgeon General, who is a palliative care professional with expertise in the following knowledge areas that may include without limitation:

- (i) Interdisciplinary palliative care;
- (ii) Medical, nursing, social work, pharmacy, or spiritual services;
- (iii) Psychosocial issues involved in caregiving for patient and family caregivers or their advocates; and
- (iv) Palliative care perspectives and challenges across multiple settings, including inpatient, outpatient, and community settings, and across pediatric, youth, adult, and geriatric populations; and

SECTION 4966. Arkansas Code § 20–8–702(b)(3)(B), concerning the Palliative Care and Quality of Life Interdisciplinary Task Force, is amended to read as follows:

<< AR ST § 20–8–702 >>

(B) One (1) member, in consultation with the **Arkansas** Surgeon General, who is a palliative care professional with expertise in the following knowledge areas that may include without limitation:

- (i) Interdisciplinary palliative care;
- (ii) Medical, nursing, social work, pharmacy, or spiritual services;
- (iii) Psychosocial issues involved in caregiving for patient and family caregivers or their advocates; and
- (iv) Palliative care perspectives and challenges across multiple settings, including inpatient, outpatient, and community settings, and across pediatric, youth, adult, and geriatric populations.

SECTION 4967. Arkansas Code § 20–8–702(h), concerning the Palliative Care and Quality of Life Interdisciplinary Task Force, is amended to read as follows:

<< AR ST § 20–8–702 >>

(h) The Department of Health, ~~in conjunction with the Department of Human Services,~~ shall provide staff, information, and other assistance as reasonably necessary to assist the task force in its efficient organization.

SECTION 4968. Arkansas Code § 20–9–204(a), concerning the administration of the state plan for the construction of medical facilities by the Division of Health Facilities Services, is amended to read as follows:

<< AR ST § 20–9–204 >>

(a) There is established in the ~~State Board of Health~~ **Department of Health** a Division of Health Facilities Services, which shall be administered by a full-time salaried administrator under the supervision and direction of the ~~Director~~ **Secretary** of the Department of Health.

SECTION 4969. Arkansas Code § 20–9–205 is amended to read as follows:

<< AR ST § 20–9–205 >>

20–9–205. Powers and duties of State Board of Health.

(a) In carrying out this subchapter, the State Board of Health is empowered and directed to:

- (1) Require such reports, make such inspections and investigations, and prescribe and enforce such reasonable rules and regulations as it finds necessary to effectuate the purposes of this subchapter;
- (2) Provide methods of administration ~~and appoint an administrator and other personnel~~ of the Division of Health Facilities Services;
- (3) Procure and pay for the temporary services of experts or consultants on a fee-for-service basis;
- (4) Enter into agreements for the utilization of the facilities and services of other departments, agencies, and institutions, public and private;
- (5) Accept on behalf of the state, and deposit with the Treasurer of State, any grant, gift, or contribution of funds made to assist in meeting the cost of carrying out the purposes of this subchapter, and expend such funds accordingly;
- (6) Make an annual report to the ~~Governor~~ **Secretary of the Department of Health** on activities and expenditures made pursuant to this subchapter;
- (7) Procure the services of an attorney to assist the Department of Health in any legal work involved in carrying out the duties of the department and to pay for the services on a fee-for-service or retainer basis; and
- (8) Prescribe and enforce such reasonable rules and regulations as are necessary to adopt a uniform billing form for hospitals within the state and to prescribe penalties for the failure or refusal to utilize and accept such forms. However, the form must be acceptable by Medicare and its intermediaries within the state and consistent with the form adopted at the federal level by Medicare and the National Uniform Billing Committee.

(b) The department shall adopt, promulgate, and enforce such rules, regulations, and standards as may be necessary for the accomplishment of the purposes of this subchapter. The rules, regulations, and standards shall be modified, amended, or rescinded, from time to time, by the department as may be in the public interest.

SECTION 4970. Arkansas Code § 20-9-207(d), concerning the federal funds for surveying and planning construction programs, is amended to read as follows:

~~<< AR ST § 20-9-207 >>~~

(d) Warrants for all payments from the fund shall bear the signature of the ~~Director~~ **Secretary** of the Department of Health or his or her agent.

SECTION 4971. Arkansas Code § 20-9-211(c), concerning the federal funds for surveying and planning construction programs, is amended to read as follows:

~~<< AR ST § 20-9-211 >>~~

(c) Warrants for all payments from the fund shall bear the signature of the ~~Director~~ **Secretary** of the Department of Health or his or her agent.

SECTION 4972. Arkansas Code § 20-9-217(b), concerning alterations, additions, and new construction of facilities under the Division of Health Facilities Services, is amended to read as follows:

<< AR ST § 20-9-217 >>

(b)(1) ~~From time to time, the Director~~ **The Secretary** of the Department of Health or his or her agent shall inspect each construction project approved by the ~~United~~ **United** States Surgeon General.

(2) If the inspection so warrants, the ~~director~~ **secretary** or his or her agent shall certify to the United States Surgeon General that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of federal funds is due the applicant.

SECTION 4973. Arkansas Code § 20-9-1003(b), concerning the creation of the Acute Stroke Care Task Force, is amended to read as follows:

<< AR ST § 20-9-1003 >>

(b) The ~~Director~~ **Secretary** of the Department of Health shall appoint:

- (1) One (1) member to represent the Department of Health;
- (2) One (1) member to represent the American Heart Association and the American Stroke Association;
- (3) One (1) member to represent the Arkansas Minority Health Commission;
- (4) One (1) member to represent the Arkansas Hospital Association, Inc.;
- (5) One (1) member to represent the Arkansas Foundation for Medical Care, Inc.;
- (6) One (1) member to represent the Fay W. Boozman College of Public Health of the University of Arkansas for Medical Sciences;
- (7) One (1) member to represent the Division of Medical Services within the Department of Human Services;
- (8) One (1) member to represent emergency medical services;
- (9) One (1) member to represent the Arkansas Medical Society, Inc.;
- (10) One (1) member to represent the medical insurance industry;
- (11) One (1) member to represent the community at large; and
- (12) One (1) member to represent the Arkansas Medical, Dental, and Pharmaceutical Association, Inc.

SECTION 4974. Arkansas Code § 20-9-1003(d), concerning the creation of the Acute Stroke Care Task Force, is amended to read as follows:

<< AR ST § 20-9-1003 >>

(d) If a vacancy occurs, the ~~director~~ **secretary** shall appoint a person who represents the same constituency as the member being replaced.

SECTION 4975. Arkansas Code § 20-9-1102(b), concerning the creation of the Cervical Cancer Task Force, is amended to read as follows:

<< AR ST § 20–9–1102 >>

(b) The ~~Director~~ **Secretary** of the Department of Health shall appoint:

- (1) One (1) member to represent the Department of Health;
- (2) One (1) member to represent the American Cancer Society;
- (3) One (1) member to represent the Arkansas Minority Health Commission;
- (4) One (1) member to represent the Arkansas Hospital Association, Inc.;
- (5) One (1) member to represent the Arkansas Foundation for Medical Care, Inc.;
- (6) One (1) member to represent the Fay W. Boozman College of Public Health of the University of Arkansas for Medical Sciences;
- (7) One (1) member to represent the Division of Medical Services of the Department of Human Services;
- (8) One (1) member to represent primary care physicians;
- (9) One (1) member to represent the Arkansas Medical Society, Inc.;
- (10) One (1) member to represent the medical insurance industry;
- (11) One (1) member to represent the community at large; and
- (12) One (1) member to represent the Arkansas Medical, Dental, and Pharmaceutical Association, Inc..

SECTION 4976. Arkansas Code § 20–9–1102(d), concerning the creation of the Cervical Cancer Task Force, is amended to read as follows:

<< AR ST § 20–9–1102 >>

(d) If a vacancy occurs, the ~~director~~ **secretary** shall appoint a person who represents the same constituency as the member being replaced.

SECTION 4977. Arkansas Code § 20–9–1204(a), concerning the Advisory Committee on Healthcare Acquired Infections, is amended to read as follows:

<< AR ST § 20–9–1204 >>

(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 4978. Arkansas Code § 20–9–1402(a), concerning the establishment of the shaken baby syndrome education program, is amended to read as follows:

<< AR ST § 20–9–1402 >>

(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 4979. Arkansas Code § 20–9–1402(c)(1), concerning the establishment of the shaken baby syndrome education program, is amended to read as follows:

<< AR ST § 20–9–1402 >>

(c)(1) Annually beginning on or before January 1, 2014, the ~~director~~ **secretary** shall assess the effectiveness of the shaken baby syndrome education program.

SECTION 4980. Arkansas Code § 20–13–206(f), concerning the proceedings of the Emergency Medical Services Advisory Council, is amended to read as follows:

<< AR ST § 20–13–206 >>

(f)(1) The council shall report in writing to the ~~Governor~~ **Secretary of the Department of Health** on or about July 31 of each year.

- (2)** The report shall contain a summary of the proceedings of the council during the preceding fiscal year, a detailed and itemized statement of all revenue and of all expenditures made by or in behalf of the council, other information deemed necessary or useful, and any additional information which may be requested by the ~~Governor~~ **secretary**.

SECTION 4981. Arkansas Code § 20–13–503(4), concerning the definition of “director” under the PC–DI–TL program, is repealed.

<< AR ST § 20–13–503 >>

- (4) ~~“Director” means the Director of the Department of Health;~~

SECTION 4982. Arkansas Code § 20–13–505 is amended to read as follows:

<< AR ST § 20-13-505 >>

20-13-505. Authority of ~~director~~ **secretary.**

(a) The ~~Director~~ **Secretary** of the Department of Health may:

- (1) Employ any coordination measures necessary to effectuate the purposes of this subchapter within and among the responsible components;
- (2) Engage in any educational program or effort undertaken in partnership with county or municipal governmental agencies or other groups if, in his or her judgment, such activity would effectuate the purposes of this subchapter;
- (3) Authorize any component within the system to employ experts and consultants and compensate those individuals at rates determined by the ~~director~~ **secretary** in consultation with component representatives of the University of Arkansas for Medical Sciences; and
- (4) Engage in programs of experimental or demonstration research.

(b) Additionally, the ~~director~~ **secretary** may accept and administer loans, grants, or other funds and gifts, conditional or otherwise, from the United States Government and any other public or private sources. In all such transactions, the PC-DI-TL system shall remain unitary, and the ~~director~~ **secretary** shall allow no function which might require the separation of the components.

(c) The ~~director~~ **secretary** shall have full authority, in consultation with the two (2) University of Arkansas for Medical Sciences components of the PC-DI-TL system, to formulate, promulgate, adopt, amend, and enforce rules, regulations, and regulatory standards necessary to effectuate this subchapter in a way consistent with § 10-3-309.

SECTION 4983. Arkansas Code § 20-13-506(a)(2), concerning the creation of the advisory committee for the PC-DI-TL program, is amended to read as follows:

<< AR ST § 20-13-506 >>

(2) The committee shall consist of an uneven number of persons, not to exceed seven (7), appointed by the ~~Director~~ **Secretary** of the Department of Health.

SECTION 4984. Arkansas Code § 20-13-506(b)(3), concerning the creation of the advisory committee for the PC-DI-TL program, is amended to read as follows:

<< AR ST § 20-13-506 >>

(3) In the selection of members, the ~~director~~ **secretary** shall appoint only those persons with professional expertise in poison control, drug information, toxicological laboratory services, or other health and safety fields.

SECTION 4985. Arkansas Code § 20-13-506(d), concerning the creation of the advisory committee for the PC-DI-TL program, is amended to read as follows:

<< AR ST § 20-13-506 >>

(d) Any reasonable administrative and technical assistance required by the committee shall be provided by the ~~director~~ **secretary** in consultation with the UAMS–Pharmacy and UAMS–Library permanent components of the PC–DI–TL program.

SECTION 4986. Arkansas Code § 20–13–508(a), concerning the designation of personnel within the PC–DI–TL services system, is amended to read as follows:

<< AR ST § 20–13–508 >>

(a) Each permanent component within the PC–DI–TL services system shall designate those persons within the component department who shall have responsibility for implementing and developing this toxicology services system, and each shall provide written notice of the designations to the ~~Director~~ **Secretary** of the Department of Health.

SECTION 4987. Arkansas Code § 20–13–511 is amended to read as follows:

<< AR ST § 20–13–511 >>

20–13–511. Recordkeeping and reporting.

Each of the University of Arkansas for Medical Sciences components, the Arkansas Poison and Drug Information Center, the Library of the University of Arkansas for Medical Sciences for nonemergency poison and drug information, and the Chemistry Branch of the Public Health Laboratory of the Department of Health, shall make available to the ~~Director~~ **Secretary** of the Department of Health, in such manner, form, or at such times as he or she shall require, copies of records and reports regarding all activities authorized and developed pursuant to this subchapter.

SECTION 4988. Arkansas Code § 20–13–807(d), concerning the creation of the Trauma Advisory Council, is amended to read as follows:

<< AR ST § 20–13–807 >>

(d) The ~~Director~~ **Secretary** of the Department of Health or his or her designee shall serve as a nonvoting ex officio member of the Trauma Advisory Council.

SECTION 4989. Arkansas Code § 20–13–820 is amended to read as follows:

<< AR ST § 20–13–820 >>

20–13–820. Reports to the General Assembly.

The ~~Director~~ **Secretary** of the Department of Health shall provide a report to the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor on or before April 1 and October 1 of each year through 2011. After 2011, the ~~director~~ **secretary** shall provide an annual report to the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor on or before October 1.

SECTION 4990. Arkansas Code § 20–13–1106(a), concerning disqualifying offenses for certification or recertification and waivers, is amended to read as follows:

<< AR ST § 20–13–1106 >>

(a) Except as provided in subdivision (e)(1) of this section, the Division of Emergency Medical Services shall issue a determination that a person is disqualified from certification or recertification if the person has been found guilty of or has pleaded guilty or nolo contendere to any of the offenses listed in subsection (b) of this section, including offenses for which the record has been expunged. However, the Division of Emergency Medical Services shall forward a request for a waiver to the ~~Director~~ **Secretary** of the Department of Health on all applicants who have been convicted of the crimes listed in subsection (b) of this section if five (5) years have passed since the conviction, if five (5) years have passed since release from custodial confinement, or if the applicants are currently certified emergency medical technicians, before making the final determination on certification or recertification. These individuals will not be suspended before the ~~director's~~ **secretary's** making the final determination.

SECTION 4991. Arkansas Code § 20–13–1106(d)(2), concerning disqualifying offenses for certification or recertification and waivers, is amended to read as follows:

<< AR ST § 20–13–1106 >>

(2) The written request for waiver shall be mailed to the ~~director~~ **secretary** within fifteen (15) calendar days after receipt of the determination by the Department of Health.

SECTION 4992. Arkansas Code § 20–13–1201(3), concerning the definition of “director” under the vaccination program for first responders, is repealed.

<< AR ST § 20–13–1201 >>

(3) “~~Director~~” means the ~~Director~~ of the Department of Health;

SECTION 4993. Arkansas Code § 20–14–804(b), concerning the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf, is amended to read as follows:

<< AR ST § 20–14–804 >>

(b) The board shall consist of seven (7) members appointed by the ~~Director~~ **Secretary** of the Department of Health as follows:

(1) Four (4) licensed qualified interpreters appointed from a list of eight (8) submitted by the Arkansas Registry of Interpreters for the Deaf, Inc. in conjunction with the Arkansas Association for the Deaf;

(2) Two (2) members appointed from a list of four (4) submitted by the Arkansas Association for the Deaf in conjunction with the Arkansas Registry of Interpreters for the Deaf, Inc. who are deaf persons, hard of hearing persons, or oral deaf persons not licensed under this subchapter; and

(3) One (1) member appointed from a list of two (2) submitted by the Arkansas Association for the Deaf in conjunction with the Arkansas Registry of Interpreters for the Deaf, Inc. who are neither individuals who are deaf, deafblind, hard of hearing, or oral deaf and who are not licensed under this subchapter.

SECTION 4994. Arkansas Code § 20–14–804(e), concerning the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf, is amended to read as follows:

<< AR ST § 20–14–804 >>

(e) If a vacancy occurs on the board, the ~~director~~ **secretary** shall appoint to complete the term vacated a person who possesses the same qualifications as those required for the position to which he or she is appointed.

SECTION 4995. Arkansas Code § 20–14–805(b), concerning the powers and duties of the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf, is amended to read as follows:

<< AR ST § 20–14–805 >>

(b) The Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf shall review and recommend to the ~~Director~~ **Secretary** of the Department of Health:

- (1) Acceptance or rejection of applications for licensure and renewal of licenses for interpreters for the deaf, deafblind, hard of hearing, and oral deaf;
- (2) Criteria for issuance and renewal of licenses for licensed qualified interpreters;
- (3) Criteria for issuance and continuance of provisional licenses;
- (4) Fees for licensure and licensure renewal under this subchapter;
- (5) Suspension or revocation of licenses under this subchapter;
- (6) Procedures for receiving and investigating complaints under the Arkansas Administrative Procedure Act, § 25–15–201 et seq.;
- (7) Rules to ensure that an interpreting agency provides only licensed qualified interpreters for services under this subchapter;
- (8) Rules regarding conflicts of interest regarding members of the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf;
- (9)(A) A code of professional conduct.
 - (B) The code of professional conduct shall provide, at a minimum, that:
 - (i) A licensed qualified interpreter shall make a true interpretation in an understandable manner to an individual who is deaf, deafblind, hard of hearing, or oral deaf for whom the licensed qualified interpreter is appointed and that the licensed qualified interpreter will interpret accurately the statements of the individual who is deaf or hard of hearing who desires that his or her statements be made in English to the best of the licensed qualified interpreter's skill and judgment; and
 - (ii) All information that a licensed qualified interpreter gathers, learns from, or relays to an individual who is deaf, deafblind, hard of hearing, or oral deaf during an administrative, civil, or criminal proceeding shall remain confidential and privileged unless the individual who is deaf, deafblind, hard of hearing, or oral deaf desires that the information be communicated to other persons; and
- (10) A continuing education program for licensed qualified interpreters.

SECTION 4996. Arkansas Code § 20–14–806(a), concerning the powers and duties of the Director of the Department of Health, is amended to read as follows:

<< AR ST § 20-14-806 >>

(a) After consideration of the recommendation of the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf, the ~~Director~~ **Secretary** of the Department of Health shall:

- (1) Issue or deny a license or a renewal of license of a licensed qualified interpreter;
- (2) Issue or deny a license or a renewal of a licensed provisional interpreter license;
- (3) Confirm or overrule a recommendation to revoke or suspend a license for an interpreter between a hearing individual and an individual who is deaf, deafblind, hard of hearing, or oral deaf;
- (4) Create and maintain a registry of licensed qualified interpreters; and
- (5) Establish reasonable fees for licensure and renewal of licensure.

SECTION 4997. Arkansas Code § 20-15-202 is amended to read as follows:

<< AR ST § 20-15-202 >>

20-15-202. State cancer plan.

A task force consisting of public and private entities shall be established by the ~~Director~~ **Secretary** of the Department of Health to assist the Department of Health in developing a strategic plan for a coordinated, comprehensive, statewide network of cancer resources, services, and programs.

SECTION 4998. Arkansas Code § 20-15-401(b), concerning the duty of a physician to report cases of suspected cases of Reye's syndrome diseases, is amended to read as follows:

<< AR ST § 20-15-401 >>

(b) The report shall be made as promptly as possible from the time the physician first visits, examines, or prescribes for the patient, and the report shall state the name, age, sex, race, usual residence, place where the patient is to be found, the nature of the disease, the date of onset, and any additional information that the ~~Director~~ **Secretary** of the Department of Health may require.

SECTION 4999. Arkansas Code § 20-15-602(a)(3), concerning the creation and members of the State Kidney Disease Commission, is amended to read as follows:

<< AR ST § 20-15-602 >>

- (3) The ~~Commissioner of the Arkansas Rehabilitation Services of the Department of Career Education~~ **Secretary of the Department of Health, or his or her designee**, shall be a member of the commission and shall serve as secretary and disbursing officer of funds appropriated to the commission for the treatment and cure of renal diseases.

SECTION 5000. Arkansas Code § 20-15-604(a), concerning the advisory association to the State Kidney Disease Commission, is amended to read as follows:

<< AR ST § 20-15-604 >>

(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 5001. Arkansas Code § 20-15-605 is amended to read as follows:

<< AR ST § 20-15-605 >>

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 5002. Arkansas Code § 20-15-701 is amended to read as follows:

<< AR ST § 20-15-701 >>

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 the ~~medical director of either the Arkansas Tuberculosis Sanatorium or the Arkansas State Hospital~~ .

SECTION 5003. Arkansas Code § 20-15-709(b), concerning the discharge of a person committed, is amended to read as follows:

<< AR ST § 20-15-709 >>

(b) The superintendent of the institution shall report each discharge with a full statement of reasons therefor at once to the ~~Director~~ **Secretary** of the Department of Health, to the county health officer of the county where the person was committed, and to the clerk of the court from which the person was committed.

SECTION 5004. Arkansas Code § 20-15-1003 is amended to read as follows:

<< AR ST § 20-15-1003 >>

20–15–1003. Advisory committee.

(a) To assure the safety and accuracy of screening and diagnostic mammography and to promote the highest quality imaging in the most efficient setting to contain costs, radiological standards, and quality assurance programs shall be established and administered by the ~~Director~~ **Secretary** of the Department of Health.

(b) To assist the ~~Director~~ **Secretary** of the Department of Health in establishing the quality standards, there is created an advisory committee to be composed of:

- (1) The Director of Mammography at the University of Arkansas for Medical Sciences, or his or her designee;
- (2) The Chair of the Breast Screening Project of the Arkansas Division of the American Cancer Society, or his or her designee;
- (3) A physician appointed by the Arkansas Medical Society, Inc. or his or her designee;
- (4) A health physicist from the Radiation Control Section of the Department of Health, or his or her designee;
- (5) A medical physicist with experience and training in mammography procedures appointed by the ~~Director~~ **Secretary** of the Department of Health;
- (6) A registered X-ray technologist with experience and training in mammography practices and procedures appointed by the ~~Director~~ **Secretary** of the Department of Health; and
- (7) The President of the Arkansas Chapter of the American College of Radiology, or his or her designee.

(c) The committee and the ~~Director~~ **Secretary** of the Department of Health shall continuously review and revise the quality standards in light of current scientific knowledge, but no less frequently than one (1) time every year.

SECTION 5005. Arkansas Code § 20–15–1004(a)(1), concerning the accreditation of facilities under the federal Mammography Quality Standards Act of 1992, is amended to read as follows:

<< AR ST § 20–15–401 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Health shall establish quality standards for accreditation of facilities wherein mammography may be conducted in accordance with the Mammography Quality Standards Act of 1992, Pub. L. No. 102–539 (21 C.F.R. Part 900).

SECTION 5006. Arkansas Code § 20–15–1502(4), concerning the definition of “director” under the laws establishing the Universal Newborn Hearing Screening, Tracking, and Intervention Advisory Board, is repealed.

<< AR ST § 20–15–1502 >>

(4) “~~Director~~” means the ~~Director~~ of the ~~Department of Health~~;

SECTION 5007. Arkansas Code § 20–15–1903(2), concerning the definition of “high risk” under the Colorectal Cancer Prevention, Early Detection, and Treatment Act, is amended to read as follows:

<< AR ST § 20–15–1903 >>

(2) Any additional or expanded definition of “persons at high risk for colorectal cancer” as recognized by medical science and determined by the ~~Director~~ **Secretary** of the Department of Health in consultation with the University of Arkansas for Medical Sciences.

SECTION 5008. Arkansas Code § 20–15–1906 is amended to read as follows:

<< AR ST § 20–15–1906 >>

20–15–1906. Colorectal Cancer Prevention, Early Detection, and Treatment Advisory Committee.

(a) There is created a Colorectal Cancer Prevention, Early Detection, and Treatment Advisory Committee to advise the ~~Director~~ **Secretary** of the Department of Health on matters of concern under this subchapter.

(b) The ~~director~~ **secretary** shall appoint:

- (1) One (1) member to represent the Department of Health;
- (2) One (1) member to represent the target population of this subchapter;
- (3) One (1) member who specializes in primary care or gastrointestinal medicine to represent the Arkansas Medical Society, Inc.;
- (4) One (1) member who specializes in primary care or gastrointestinal medicine to represent the Arkansas Medical, Dental and Pharmaceutical Association, Inc.;
- (5) One (1) member who is a surgical oncologist physician;
- (6) One (1) member who is a radiation oncologist physician;
- (7) One (1) member to represent the Arkansas Nurses Association;
- (8) One (1) member who is a behavioral health scientist;
- (9) One (1) member who is a medical oncologist physician;
- (10) One (1) member to represent the area health education centers;
- (11) One (1) member who is a colorectal cancer survivor;
- (12) One (1) member to represent the American Cancer Society;
- (13) One (1) member to represent the Community Health Centers of Arkansas; and
- (14) One (1) member selected from the Arkansas Minority Health Commission.

(c) The ~~director~~ **secretary** shall ensure that the membership is representative of the four (4) congressional districts.

(d) Terms of committee members shall be three (3) years except for the initial members whose terms shall be determined by lot so as to stagger terms to equalize as nearly as possible the number of members to be appointed each year.

(e) If a vacancy occurs, the ~~director~~ **secretary** shall appoint a person who represents the same constituency as the member being replaced.

- (f) The committee shall elect one (1) of its members to act as chair for a term of one (1) year.
- (g) A majority of the members shall constitute a quorum for the transaction of business.
- (h) The committee shall meet at least quarterly to study developments in programs created under this subchapter and to assist the ~~director~~ **secretary** in improving existing programs and developing new programs.
- (i) The department shall provide office space and staff for the committee.
- (j) Members of the committee shall serve without pay but may receive expense reimbursement in accordance with § 25–16–902 if funds are available.

SECTION 5009. Arkansas Code § 20–16–101 is repealed.

<< Repealed: AR ST § 20–16–101 >>

~~20–16–101. Authorization to continue the Mississippi County Midwife Program.~~

~~The Director of the Department of Health may continue the Mississippi County Midwife Program utilizing available state and federal funding.~~

SECTION 5010. Arkansas Code § 20–16–203(c)(3), concerning the advisory commission to the Arkansas Reproductive Health Monitoring System, is amended to read as follows:

<< AR ST § 20–16–203 >>

- (3) The ~~Director~~ **Secretary** of the Department of Health;

SECTION 5011. Arkansas Code § 20–16–507(b), concerning the requirement of testing pregnant women, is amended to read as follows:

<< AR ST § 20–16–507 >>

(b) For the purpose of this section, a standard serological test shall be a test for syphilis, human immunodeficiency virus, and Hepatitis B, approved or authorized by the Centers for Disease Control and Prevention, and approved by the ~~Director~~ **Secretary** of the Department of Health and shall be made at the division's laboratory or at another laboratory approved to make such tests.

SECTION 5012. Arkansas Code § 20–16–1110(c), concerning civil remedies to be brought against a person who performed an abortion, is amended to read as follows:

<< AR ST § 20–16–1110 >>

(c)(1) If the Department of Health fails to issue the public report required under § 20–16–1108, any group of ten (10) or more citizens of this state may seek an injunction in a court of competent jurisdiction against the ~~Director~~ **Secretary** of the Department of Health requiring that a complete report be issued within a period established by the court.

- (2) Failure of the ~~director~~ **secretary** to obey an injunction issued under subdivision (c)(1) of this section is punishable as civil contempt.

SECTION 5013. Arkansas Code § 20–18–203(a), concerning the State Registrar of Vital Records, is amended to read as follows:

<< AR ST § 20–18–203 >>

(a) The ~~Director~~ **Secretary** of the Department of Health shall appoint the State Registrar of Vital Records.

SECTION 5014. Arkansas Code § 20–19–309(a), concerning the area of quarantine, is amended to read as follows:

<< AR ST § 20–19–309 >>

(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 5015. Arkansas Code § 20–19–311 is amended to read as follows:

<< AR ST § 20–19–311 >>

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 5016. Arkansas Code § 20–19–406(c)(3), concerning vaccination of wolves and wolf-dog hybrids, is amended to read as follows:

<< AR ST § 20–19–406 >>

(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 5017. Arkansas Code Title 20, Chapter 20, Subchapter 3, is repealed.

~~Subchapter 3 — Pesticides and Chemicals Safe for Children Hand-Harvesting Crops~~

<< Repealed: AR ST § 20–20–301 >>

~~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 which are safe for the occupational exposure of children twelve (12) and thirteen (13) years of age employed in hand-harvesting short-season crops.~~

~~(b) The director also may establish by regulation safe reentry times for children twelve (12) and thirteen (13) years of age so employed.~~

<< Repealed: AR ST § 20-20-302 >>

~~20-20-302. Assessment fees.~~

~~(a) Any employer, individual, corporation, group, or association which proposes the approval of any pesticide or other agricultural chemical for inclusion on this list shall pay the Department of Health a fee for conducting any necessary study or risk assessment.~~

~~(b) The fee shall be established by regulation of the department and shall be deposited into the State Treasury to the Public Health Fund Account.~~

<< Repealed: AR ST § 20-20-303 >>

~~20-20-303. Hand-harvesting by children.~~

~~Children twelve (12) years of age and older may be employed to hand-harvest short-season crops, provided that:~~

~~(1) School is not in session;~~

~~(2) Written parental consent has been obtained by the employer;~~

~~(3) An employment certificate has been obtained from the Director of the Department of Labor pursuant to § 11-6-109;~~

~~(4) No pesticide or other agricultural chemical has been used on the crop except those approved by the Department of Health pursuant to § 20-20-301; and~~

~~(5) Any pesticide or other agricultural chemical used on the crop has been applied and utilized in compliance with the worker protection standards established by the United States Environmental Protection Agency and the department.~~

SECTION 5018. Arkansas Code § 20-21-203(18), concerning the definition of “Director” under the laws governing ionizing radiation, is repealed.

<< AR ST § 20-20-303 >>

~~(18) “Director” means the Director of the Department of Health;~~

SECTION 5019. Arkansas Code § 20-21-206(b), concerning employees of the State Radiation Control Agency, is amended to read as follows:

<< AR ST § 20-21-206 >>

(b) The ~~Director~~ **Secretary** of the Department of Health shall designate an individual to perform the functions vested in the agency pursuant to this subchapter.

SECTION 5020. Arkansas Code § 20-21-207(10)(A), concerning the powers and duties of the State Radiation Control Agency, is amended to read as follows:

<< AR ST § 20-21-207 >>

(10)(A) Allow the ~~Director~~ **Secretary** of the Department of Health or his or her authorized representative to require the posting of a bond by licensees to provide funds in the event of abandonment, default, or other inability of the licensee to meet the requirements of the agency. The agency may establish bonding requirements by classes of licensee and by range of monetary amounts. In establishing the requirements, the agency shall give consideration to the potential for contamination, injury, cost of disposal, and reclamation of the property.

SECTION 5021. Arkansas Code § 20-21-207(10)(C) and (D), concerning the powers and duties of the State Radiation Control Agency, are amended to read as follows:

<< AR ST § 20-21-207 >>

(C) A bond deemed acceptable in Arkansas shall be a bond issued by a fidelity or surety company authorized to do business in Arkansas, a personal bond secured by such collateral as the ~~director~~ **secretary** deems satisfactory, a cash bond, or a letter of credit.

(D)(i) All state, local, or other governmental agencies or subdivisions shall be exempt from the requirements of this subdivision (10).

(ii) The ~~director~~ **secretary** may exempt classes of licensees from the requirements of this section when a finding is made that the exemption will not result in a significant risk to the public health and safety; and

SECTION 5022. Arkansas Code § 20-21-207(11)(A), concerning the powers and duties of the State Radiation Control Agency, is amended to read as follows:

<< AR ST § 20-21-207 >>

(11)(A) Allow the ~~director~~ **secretary** or his or her authorized representative to require a licensee to deposit funds on an annual, semiannual, or quarterly basis into a trust fund established for the exclusive purpose set out in this subdivision (11). The Perpetual Maintenance Fund shall be defined so as to embrace each of the following:

(i) A source of revenue to provide for perpetual care and surveillance of a radioactive waste concentration, storage, and disposal site as described in subdivision (9) of this section or a source of revenue to provide for perpetual care and surveillance of a formerly licensed activity still containing or having associated with it radioactive material, the activity having ceased to operate by reason of default, abandonment, or decommissioning;

(ii) The Perpetual Maintenance Fund shall have two (2) inputs:

(a) Fees which are contributed by the lessee or licensee resulting from the operation of concentrating, storing, or disposing of radioactive material as set forth in subdivision (9) of this section; and

(b) Moneys accrued as interest on a trust fund established by a licensee. These funds shall be automatically transferred to the Perpetual Maintenance Fund in the event of default, abandonment, or decommissioning;

(iii) Moneys in the Perpetual Maintenance Fund shall be appropriated to the agency for use in a way consonant with this subchapter, including such items as perpetual care, maintenance, and surveillance; and

(iv) All licensee contributions to the Perpetual Maintenance Fund shall be payable to the ~~director~~ **secretary** and deposited by the Treasurer of State.

SECTION 5023. Arkansas Code § 20–21–207(11)(F), concerning the powers and duties of the State Radiation Control Agency, is amended to read as follows:

<< AR ST § 20–21–207 >>

(F) If a person licensed by any governmental agency other than the State of Arkansas desires to transfer a site to the state for the purpose of administering or providing perpetual care, a lump-sum deposit shall be made to a trust fund. The amount of the deposit shall be determined by the ~~director~~ **secretary**, taking into consideration the factors stated in subdivision (11)(D) of this section.

SECTION 5024. Arkansas Code § 20–21–306(b), concerning the State Electronic Product Control Agency, is amended to read as follows:

<< AR ST § 20–21–306 >>

(b) The ~~Director~~ **Secretary** of the Department of Health shall be Director of the State Electronic Product Control Agency and shall perform the functions vested in the agency pursuant to this subchapter.

SECTION 5025. Arkansas Code § 20–21–403(a)(2), concerning the operating funds of the Nuclear Planning and Response Program, is amended to read as follows:

<< AR ST § 20–21–403 >>

(2) The ~~Director~~ **Secretary** of the Department of Health shall certify the amount to each utility in the state which maintains and operates one (1) or more nuclear generating facilities in the state. The Chief Fiscal Officer of the State shall then notify each utility of the portion of the amount to be paid by each utility.

SECTION 5026. Arkansas Code § 20–21–404(b) and (c), concerning the fees from utilities operating nuclear generating facilities, are amended to read as follows:

<< AR ST § 20–21–404 >>

(b) The fees so levied against each utility shall be remitted by the utility to the ~~Director~~ **Secretary** of the Department of Health within thirty (30) days after the amount thereof is certified by the Chief Fiscal Officer of the State.

(c) If any utility shall fail or refuse to pay the fees as provided in this section within the time prescribed, the ~~director~~ **secretary** shall add to the fee a penalty of twenty-five percent (25%) thereof and shall certify the amount of the delinquent fee and penalty to the Attorney General for collection.

SECTION 5027. Arkansas Code § 20–21–501(3), concerning the definition of “Division of Health” under the Nuclear Planning and Response Program of the Division of Radiation Control and Emergency Management of the Department of Health, is amended to read as follows:

<< AR ST § 20–21–501 >>

(3) “Division of Health” means the Nuclear Planning and Response Program of the Division of Radiation Control and Emergency Management of the Department of Health, with the ~~Director~~ **Secretary** of the Department of Health having the ultimate authority over any activities conducted by that program, division, and department;

SECTION 5028. Arkansas Code § 20–27–209 is repealed.

<< Repealed: AR ST § 20–27–209 >>

~~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 5029. Arkansas Code § 20–27–602(3), concerning the definition of “Director” under the laws regulating lead poisoning prevention, is repealed.

<< AR ST § 20–27–602 >>

(3) “Director” means the ~~Director of the Department of Health or his or her authorized delegate or representative;~~

SECTION 5030. Arkansas Code § 20–27–605(b), concerning the Director of the Lead Poisoning Prevention and Control Agency, is amended to read as follows:

<< AR ST § 20–27–605 >>

(b) The ~~Director~~ **Secretary** of the Department of Health shall perform the functions vested in the department pursuant to this subchapter.

SECTION 5031. Arkansas Code § 20–27–606(a), concerning the requirement for a search warrant required for inspection, is amended to read as follows:

<< AR ST § 20–27–606 >>

(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 analyses, and to determine abatement compliance. However, entry onto or into any property under the jurisdiction and control of the United States Government shall be effected only with the concurrence of the United States Government or its designated representative.

SECTION 5032. Arkansas Code § 20–27–607(a), concerning the notification of a lead hazard, is amended to read as follows:

<< AR ST § 20–27–607 >>

(a) After completion of an inspection or investigation, the ~~Director~~ **Secretary** of the Department of Health or his or her designee shall notify the owner and tenant of his or her findings and, in the event any lead hazard was found, the notification shall contain instructions pertaining to abatement as prescribed by this subchapter and rules and regulations promulgated pursuant to this subchapter.

SECTION 5033. Arkansas Code § 20–27–1501(3)(D), concerning the definition of “artist trainer”, is amended to read as follows:

<< AR ST § 20–27–1501 >>

(D) Is a registered instructor for the specified field of body art with the ~~Department of Higher Education~~ **department**;

SECTION 5034. Arkansas Code § 20–27–1503(a)(2), concerning licensing, regulating, and inspecting body art establishments and artists by the Department of Health, is amended to read as follows:

<< AR ST § 20–27–1503 >>

(2) A body art training facility shall be licensed by the Department of Health as an establishment and ~~by the Department of Higher Education~~ as an approved body art training facility.

SECTION 5035. Arkansas Code § 20–27–1507(a) and (b), concerning the education of an artist in training, is amended to read as follows:

<< AR ST § 20–27–1507 >>

(a) An artist trainer shall be a registered instructor in a school licensed by the ~~Department of Higher Education under § 6–51–601 et seq.~~ **Department of Health.**

(b) ~~In consultation with the State Board of Private Career Education, the Department of Higher Education~~ **The department** shall develop standards to determine:

- (1) The maximum number of artists in training in a training facility at one time; and
- (2) The length of the program in hours and across a range of months.

SECTION 5036. Arkansas Code § 20–27–1507(c)(2)(A), concerning the education of an artist in training, is amended to read as follows:

<< AR ST § 20–27–1507 >>

(2)(A) The artist trainer shall maintain a training log of the clock hours completed by the artist in training on forms approved by the ~~Department of Higher Education~~ **department**.

SECTION 5037. Arkansas Code § 20–27–1507(c)(2)(D), concerning the education of an artist in training, is amended to read as follows:

<< AR ST § 20–27–1507 >>

(D) The completed training log shall be submitted to the ~~Department of Health~~ **department** at the time of the practical examination under § 20–27–1508.

SECTION 5038. Arkansas Code § 20–27–1507(d) and (e), concerning the education of an artist in training, is amended to read as follows:

<< AR ST § 20–27–1507 >>

(d) An artist trainer may offer training only in the area in which the artist trainer holds a current license from the ~~Department of Health~~ **department**.

(e) The ~~Department of Higher Education~~ **department** shall adopt a minimum curriculum for each area of body art training that shall be followed by all artist trainers, artists in training, and body art training facilities.

SECTION 5039. Arkansas Code § 20–27–2701(3), concerning the definition of “director” under the laws regarding the unlawful sale of bedding, is repealed.

<< AR ST § 20–27–2701 >>

(3) “~~Director~~” means the ~~Director of the Department of Health~~;

SECTION 5040. Arkansas Code § 20–27–2702(d), concerning the labeling of bedding for sale, is amended to read as follows:

<< AR ST § 20–27–2702 >>

(d) The ~~Director~~ **Secretary** of the Department of Health shall approve the form and size of labels, the fabric of which the labels are made, and the wording and statements on labels provided for under this section.

SECTION 5041. Arkansas Code § 20–47–510(d)(1)(A), concerning the coordination and oversight of annual reports of the Comprehensive Children's Behavioral Health System of Care Plan, is amended to read as follows:

<< AR ST § 20-47-510 >>

(A) The ~~Commissioner~~ **Secretary** of Education, **the Secretary of Health**, and the ~~Director of the Department of Health~~, and the ~~Director~~ **Secretary** of the Department of Human Services; and

SECTION 5042. Arkansas Code § 20-47-510(e)(1)(A), concerning the coordination and oversight of annual reports of the Comprehensive Children's Behavioral Health System of Care Plan, is amended to read as follows:

<< AR ST § 20-47-510 >>

(A) The commissioner, the ~~Director~~ **Secretary** of the Department of Health, and the ~~Director~~ **Secretary** of the Department of Human Services; and

SECTION 5043. Arkansas Code § 20-57-203 is amended to read as follows:

<< AR ST § 20-57-203 >>

20-57-203. Director Secretary of the Department of Health — Powers and duties.

The ~~Director~~ **Secretary** of the Department of Health shall have:

- (1) Power and authority to prevent the proliferation of infections, contagious, and communicable diseases resulting from unsanitary food service operations; and
- (2) Direction and control over all sanitary and quarantine measures for dealing with all such diseases within the state and to suppress the diseases and prevent their spread.

SECTION 5044. Arkansas Code § 20-57-207(a) and (b), concerning nonliability for the prevention of choking, are amended to read as follows:

<< AR ST § 20-57-207 >>

(a) The ~~Director~~ **Secretary** of the Department of Health shall study and approve instructions detailing first aid techniques and a poster diagramming first aid techniques designed and intended for use by a person without medical training in removing food which has become lodged in the throat of a choking victim.

(b) The ~~director~~ **secretary** shall publish the approved instructions and poster and make them available to each food service operation in the state.

SECTION 5045. Arkansas Code § 20-57-207(g), concerning nonliability for the prevention of choking, is amended to read as follows:

<< AR ST § 20-57-207 >>

(g) No food service operation, employee of a food service operation, person connected with its management, nor any other person shall be liable in any civil action for damages for personal injury or wrongful death for any acts or omissions of any individual removing, attempting to remove, or assisting in the removal of food lodged in the throat of a choking victim in accordance with instructions supplied by the ~~director~~ **secretary**.

SECTION 5046. Arkansas Code § 20–57–304 is amended to read as follows:

<< AR ST § 20–57–304 >>

20–57–304. Penalty.

Any person who violates any of the provisions of this subchapter, or the orders, rules, or regulations promulgated by the ~~Director~~ **Secretary** of the Department of Health under authority thereof, shall upon conviction be subject to a fine for each and every offense in a sum not exceeding five hundred dollars (\$500) or to imprisonment for not more than six (6) months, or both fine and imprisonment.

SECTION 5047. Arkansas Code § 20–57–305(b), concerning the powers and duties of the State Board of Health and the Director of the Department of Health, is amended to read as follows:

<< AR ST § 20–57–305 >>

(b) All orders, rules, and regulations adopted by the board pursuant to this subchapter shall be published in the manner prescribed in subsection (c) of this section and, within the limits specified by this subchapter, shall become effective upon such date as the ~~Director~~ **Secretary** of the Department of Health shall fix.

SECTION 5048. Arkansas Code § 20–57–305(d)(1), concerning the powers and duties of the State Board of Health and the Director of the Department of Health, is amended to read as follows:

<< AR ST § 20–57–305 >>

(d)(1) The ~~director~~ **secretary** is authorized to collect samples for analysis and to conduct examinations and investigations for the purposes of this subchapter through any officers or employees under his or her supervision.

SECTION 5049. Arkansas Code § 20–57–306(d), concerning vitamins and other ingredients of flour, is amended to read as follows:

<< AR ST § 20–57–306 >>

(d) The ~~Director~~ **Secretary** of the Department of Health is empowered with the authority and directed to change, or add to, the specifications for ingredients and the amounts thereof required to conform to the federal definition of enriched flour when promulgated or as may from time to time be amended.

SECTION 5050. Arkansas Code § 20–57–306(f)(1), concerning vitamins and other ingredients of flour, is amended to read as follows:

<< AR ST § 20–57–306 >>

(f)(1) The terms of this section shall not apply to flour sold to distributors, bakers, or other processors if the purchaser furnishes to the seller a certificate in such form as the ~~director~~ **secretary** shall by regulation prescribe, certifying that the flour will be:

(A) Resold to a distributor, baker, or other processor;

(B) Used in the manufacture, mixing, or compounding of flour, white bread, or rolls enriched to meet the requirements of this subchapter; or

(C) Used in the manufacture of products other than flour, white bread, or rolls.

SECTION 5051. Arkansas Code § 20–59–201(5), concerning the definition of miscellaneous products under the laws regulating milk and dairy products, is amended to read as follows:

<< AR ST § 20–59–201 >>

(5) Miscellaneous Products. Varieties, types, and kinds of milk and dairy products which are not defined in this section shall be manufactured and marketed under the standards of composition promulgated by the Bureau of Standards of the United States Food and Drug Administration, or may be promulgated by the ~~Director~~ **Secretary** of the Department of Health under authority vested in him or her to make and promulgate rules and regulations;

SECTION 5052. Arkansas Code § 20–59–201(10)(F), concerning the definition of “cream or milk grader” under the laws regulating milk and dairy products, is amended to read as follows:

<< AR ST § 20–59–201 >>

(F) “Cream or milk grader” shall be considered to mean any person who shall have passed a satisfactory examination as to his or her qualifications and to have actually demonstrated his or her ability before the ~~director~~ **secretary** or his or her assistants, to determine the quality of cream or milk purchased for the purpose of manufacture into dairy products; and

SECTION 5053. Arkansas Code § 20–59–202(1) and (2), concerning penalties under the laws governing milk and dairy products, is amended to read as follows:

<< AR ST § 20–59–202 >>

(1) Hinder, obstruct, or in any way interfere with the ~~Director~~ **Secretary** of the Department of Health or his or her deputies while discharging the duties of inspection;

(2) Obstruct or hinder in any way the ~~director~~ **secretary** from carrying out the full meaning and intent of this subchapter;

SECTION 5054. Arkansas Code § 20–59–205(a), concerning the right of review of the State Board of Health regarding milk and dairy products, is amended to read as follows:

<< AR ST § 20–59–205 >>

(a) It shall be the duty of the State Board of Health, and it is authorized and empowered through its constituted officers and agents as set out in this section, to perform the following acts. However, any aggrieved party shall have the right to apply to the circuit court in the county of his or her residence for a review of any summary action on the part of the board or its agents and for this purpose service of process upon the ~~Director~~ **Secretary** of the Department of Health at any place in this state shall constitute valid service in the application for review:

(1) Inspection of Plants. To inspect or cause to be inspected, as often as may be deemed practicable, all dairy products plants or any other places where dairy products are produced, manufactured, frozen, processed, kept, handled, stored, or sold within this state;

(2) Production and Sale Prohibited. To prohibit the production and sale of unclean, adulterated, unwholesome milk, cream, or other dairy products;

(3) Condemnation for Food. To condemn for food purposes by denaturing with harmless coloring all unclean or unwholesome dairy products wherever they may find those products;

(4) Samples. To take samples anywhere of any dairy products or imitation thereof and cause the samples to be analyzed or satisfactorily tested according to the method of the AOAC International in force at the time. The analyses or tests shall be preserved and recorded;

(5) Right of Entry. To enter during business hours all dairy products plants or other places where dairy products are manufactured, produced, frozen, processed, stored, sold, or kept for sale or transportation in order to perform their official duties;

(6) Price of Cream or Butterfat.

(A) To require that no person, firm, corporation, or association shall buy or offer to buy cream or butterfat for butter-making purposes without displaying the price to be paid for cream or butterfat according to grade of cream.

(B) The price shall be posted and displayed continuously during the business hours of the person, firm, or corporation buying cream, and the price, according to grade of cream, shall include all premiums and bonuses, if any, in letters and figures not less than two inches (2#) in height in such manner or place so that the price posted shall be plainly visible from the street in front of the building or place in which the purchase is made.

(C) It shall be deemed a violation hereof if there is:

(i) A failure on the part of the person, firm, corporation, or association, its agent, servant, or employee, to post the prices; or

(ii) A buying of cream or butterfat at a price different from that which is posted.

(D) All persons, firms, corporations, or associations, their agents, servants, or employees shall keep a record in their respective cream stations of the time and date on or at which changes in prices are made and posted.

(E) However, nothing in this subdivision (6) shall be construed as to forbid or prevent:

(i) Incorporated cooperative associations from paying annually earned patronage dividends according to the statutes and decrees under which they are organized; or

(ii) Corporations paying annual dividends according to the statutes and decrees under which they are incorporated;

(7) Subpoenas.

(A) To issue subpoenas requiring the appearance of witnesses and the production of books, papers, reports, and records before the board or the ~~Director~~ **Secretary** of the Department of Health, in all cases where sufficient evidence of violation of this subchapter is filed with the ~~Director of the Department of Health~~ **Secretary of the Department of Health**. The ~~Director of the Department of Health~~ **Secretary of the Department of Health** shall have power to administer oaths with like effect as is done in courts of law in this state.

(B) It shall be the duty of any circuit court or the judge thereof upon application to issue an attachment for the witnesses and compel their attendance before the board or the ~~Director~~ **Secretary** of the Department of Health, to give testimony upon such matters as shall be lawfully required by the official. The court or judge shall have power, in cases of refusal, to punish for contempt, as in other cases of refusal to obey the orders and process of the court;

(8) Tests.

(A) To test milk, cream, and other dairy products for the purpose of ascertaining the percentages of butterfat or other ingredients contained therein.

(B) If the ~~Director~~ **Secretary** of the Department of Health or any of his or her deputies shall find upon testing that there is a variance of more than one percent (1%) of butterfat in a cream test or two-tenths of one percent (2/10 of 1%) in a milk test between his or her test and that made by any person engaged in buying or selling milk, cream, or other dairy products for the basis of payment, the ~~Director~~ **Secretary** of the Department of Health or deputy shall cause his or her test to be verified and substantiated by a recognized laboratory. If the chemist shall find that the test made by the ~~Director~~ **Secretary** of the Department of Health or deputy is correct, the test thus made and verified shall be admitted in evidence in all prosecutions for violation of this section. The ~~Director of the Department of Health~~ **secretary** is authorized to recall and cancel the testor's permit of the person thus making false tests or to bring criminal action against the person, or both;

(9) Carrier Regulations.

(A) To forbid and prevent any common carrier to neglect or fail to remove or ship from its depot, within twenty-four (24) hours of its arrival there for shipment, any milk, cream, or other dairy products left at that depot for transportation.

(B) Railway and express companies and other common carriers shall provide and utilize sanitary ventilated rooms or canvas covers at depots or transfer points for the protection from extreme temperatures of all milk, cream, and ice cream received for shipment and not allow merchandise of a contaminating nature to be stored on or with the cream.

(C) Truck route operators shall protect milk and cream from extreme temperatures and unsanitary conditions during transportation by proper covering and separation to prevent contamination from other transportation products;

(10) Cans or Packers at Depot. To forbid and prevent milk or cream cans or ice cream packers to remain at a railroad or truck depot longer than forty-eight (48) hours from the date of their arrival, excepting individual farm shipments;

(11) Branded Containers.

(A) To forbid and prevent the use of any branded or registered cream can or milk can, ice cream, or frozen dessert packer or container for any other purpose than the handling, storing, or shipping of milk, cream, or frozen dessert.

(B) It shall be unlawful for any person or carrier other than the rightful owner, except with written consent of the owner thereof, to use, transport, or deliver any milk or cream can, whether filled with cream or milk or empty, or frozen dessert container, whether filled with frozen dessert or empty, to other than the rightful owner if the receptacle is marked with the brand or trademark of the owner, the brand or trademark being registered according to law with the Secretary of State;

(12) Alteration of Brand — Return of Containers.

(A) To forbid and prevent any person other than the rightful owner thereof to in any way alter the mark or brand or ownership identification on any milk or cream can or other dairy receptacle without written consent of the owner.

(B) Every person, firm, or corporation purchasing frozen desserts in cans and shipping bags which are to be returned to the manufacturer shall cause the cans to be washed and cleaned as soon as emptied, and the bags stored in a dry place, or returned at once;

(13) Samples of Frozen Desserts. To take samples of frozen desserts, ice cream, or other frozen dairy products for official testing at the factory where desserts are frozen or from an unopened container of frozen desserts or other frozen dairy products, according to a method approved by the AOAC International or the American Dairy Science Association; and

(14) Containers Used for Other Purposes. To forbid and prevent the sale or storage of milk, cream, or other dairy products in milk or cream cans which have previously contained kerosene, gasoline, turpentine, oil, or products or byproducts of a similar nature;

(15) Dairy Product Definitions and Standards of Identity and Labeling Requirements.

(A) To adopt the definitions and standards of identity for milk, milk products, cheeses, and frozen desserts found at 21 C.F.R., Parts 131, 133, and 135, and to adopt any amendments or additions made thereunder. The board may adopt definitions and standards of identity of milk products, cheeses, and frozen desserts if they are not found at 21 C.F.R. All packages enclosing milk, milk products, cheeses, and frozen desserts shall be labeled in accordance with the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, and regulations promulgated thereunder.

(B) Provided, that the board shall not change, correct, adopt, or promulgate rules or regulations or other health code standards pertaining to the dairy industry of Arkansas, as defined in this section, until such changes have been reviewed by active Arkansas milk producers marketing agents, herein referred to as the “agents”, and by the Arkansas Dairy Products Association, hereinafter referred to as the “association”, in regular or especially called meetings of the agents and the association, or the governing bodies thereof. However, if meetings of the agents and the association are not held within thirty (30) days after a written notice by the board of intent to change, correct, adopt, or promulgate rules and regulations, the review of the agents and the association shall be deemed waived.

(C) Notice as required by this subsection shall be given in writing by ordinary mail, or be hand delivered, to the agents and to the Director of the Arkansas Dairy Products Association.

(D) The ~~Director~~ **Secretary** of the Department of Health or the board may change, correct, adopt, or promulgate rules and regulations pertaining to the dairy industry of Arkansas in times of emergency or natural disaster without notice to the agents and the association.

(E) As used in this subchapter, the term “dairy industry of Arkansas” means Grade “A” milk plants, milk manufacturing plants, ice cream plants, milk producers, milk producer-distributors, milk haulers, milk distributors, dairy farms, receiving stations, and transfer stations.

SECTION 5055. Arkansas Code § 20–59–206(b), concerning a dairy plant license, is amended to read as follows:

<< AR ST § 20–59–206 >>

(b) Every person buying or receiving milk, cream, or dairy products for manufacturing, processing, or packaging shall be required to procure from the ~~Director~~ **Secretary** of the Department of Health an annual dairy plant license for each location where milk, cream, or dairy products are received for the purpose of manufacturing, processing, or packaging.

SECTION 5056. Arkansas Code § 20-59-207(b), concerning the frozen dessert manufacturer's license, is amended to read as follows:

<< AR ST § 20-59-207 >>

(b) Any person making frozen dessert for sale shall be required to procure from the ~~Director~~ **Secretary** of the Department of Health an annual frozen dessert manufacturer's license for each location or plant where frozen dessert is manufactured.

SECTION 5057. Arkansas Code § 20-59-210(b), concerning a sampler and grader license, is amended to read as follows:

<< AR ST § 20-59-210 >>

(b) Applications to become a licensed sampler and grader shall be made to the ~~Director~~ **Secretary** of the Department of Health upon such forms as he or she may prescribe.

SECTION 5058. Arkansas Code § 20-59-210(e), concerning a sampler and grader license, is amended to read as follows:

<< AR ST § 20-59-210 >>

(e) In order to qualify for a license, the applicant shall satisfy the ~~director~~ **secretary**, either by a written examination or otherwise, that he or she is honest and competent to do sampling work.

SECTION 5059. Arkansas Code § 20-59-211(b), concerning the milk tester license and fee, is amended to read as follows:

<< AR ST § 20-59-211 >>

(b) Application to become a licensed milk tester shall be made to the ~~Director~~ **Secretary** of the Department of Health upon such forms as the ~~director~~ **secretary** may prescribe.

SECTION 5060. Arkansas Code § 20-59-211(d), concerning the milk tester license and fee, is amended to read as follows:

<< AR ST § 20-59-211 >>

(d) If the applicant shall be found upon examination to be qualified and competent, the ~~director~~ **secretary** shall issue to him or her a license.

SECTION 5061. Arkansas Code § 20-59-226 is amended to read as follows:

<< AR ST § 20-59-226 >>

20-59-226. Unlawful acts — Removing label of health officer.

It shall be unlawful to remove or deface any tags or labels which have been attached by the ~~Director~~ **Secretary** of the Department of Health or his or her deputies to a receptacle containing cream, milk, or other dairy products.

SECTION 5062. Arkansas Code § 20–59–232 is amended to read as follows:

<< AR ST § 20–59–232 >>

20–59–232. Unlawful acts — Records of cream buyers — Monthly reports.

It shall be unlawful for all cream buyers to purchase cream without keeping a careful record of all cream bought as first grade and second grade, and they shall render the report regularly to the creamery or factory receiving the cream. Creameries shall report the above information monthly, together with other cream purchase reports to the ~~Director~~ **Secretary** of the Department of Health on forms furnished them.

SECTION 5063. Arkansas Code § 20–59–234 is amended to read as follows:

<< AR ST § 20–59–234 >>

20–59–234. Unlawful acts — Operation without permit.

It shall be unlawful for any person, firm, or corporation to operate a dairy products plant, including milk and cream stations, or freeze or manufacture frozen desserts, or operate a condensery depot within the State of Arkansas without having first secured a permit, except as provided for in § 20–59–244, signed by the ~~Director~~ **Secretary** of the Department of Health and bearing the seal of his or her office. The permit shall be displayed conspicuously at the place of business.

SECTION 5064. Arkansas Code § 20–59–243 is amended to read as follows:

<< AR ST § 20–59–243 >>

20–59–243. Unlawful acts — Graded milk.

It shall be unlawful to label, sell, or offer for sale any milk as graded milk unless the grade is officially awarded by the ~~Director~~ **Secretary** of the Department of Health having jurisdiction in accordance with the provisions of the United States Public Health Service Standard Milk Ordinance and Code.

SECTION 5065. Arkansas Code § 20–59–244 is amended to read as follows:

<< AR ST § 20–59–244 >>

20–59–244. Unlawful acts — Pasteurized milk — Permit.

It shall be unlawful to label, sell, or offer for sale as pasteurized any milk unless it has been pasteurized in accordance with the provisions of the United States Public Health Service Standard Milk Ordinance and Code under a permit issued by the ~~Director~~ **Secretary** of the Department of Health. However, no permit shall be required where plants are operating under permit from a municipality enforcing the United States Public Health Service Standard Milk Ordinance and Code.

SECTION 5066. Arkansas Code § 20–59–246(a), concerning a manufacturing milk permit, is amended to read as follows:

<< AR ST § 20–59–246 >>

(a) Every dairy which produces milk or cream to be used for manufacturing purposes shall be required to procure from the ~~Director~~ **Secretary** of the Department of Health a manufacturing milk permit.

SECTION 5067. Arkansas Code § 20–59–303(c), concerning enforcement by the State Board of Health, is amended to read as follows:

<< AR ST § 20–59–303 >>

(c) However, any aggrieved party shall have the right to apply to the circuit court in the county of his or her residence for a review of any summary action on the part of the board or its agents. For this purpose, service of process upon the ~~Director~~ **Secretary** of the Department of Health at any place in this state shall constitute a valid service in the application for review.

SECTION 5068. Arkansas Code § 20–59–305(a), concerning the requirement for a production permit for mellorine, is amended to read as follows:

<< AR ST § 20–59–305 >>

(a) It shall be unlawful for any person, firm, or corporation to operate a plant producing, manufacturing, processing, freezing, or packaging mellorine or mellorine mix without having first secured a permit signed by the ~~Director~~ **Secretary** of the Department of Health and bearing the seal of his or her office. The permit shall be displayed conspicuously at the place of business.

SECTION 5069. Arkansas Code § 20–59–305(d), concerning the requirement for a production permit for mellorine, is amended to read as follows:

<< AR ST § 20–59–305 >>

(d) The ~~director~~ **secretary** shall collect for the permits, and all funds collected by the ~~director~~ **secretary** under the provisions of this subchapter shall be deposited into the State Treasury.

SECTION 5070. Arkansas Code § 20–59–404(b), concerning inspection fees under the Grade “A” Milk and Milk Products Inspection and Regulation Program, is amended to read as follows:

<< AR ST § 20–59–404 >>

(b) If any person fails, neglects, or refuses to pay the above fee and is delinquent for a period of thirty (30) days, the ~~Director~~ **Secretary** of the Department of Health is directed and empowered to prohibit the person from distributing, hauling, selling, or otherwise handling Grade “A” milk or milk products in the state and shall suspend his or her permit and withdraw all inspection service from the establishment until fees are paid in full.

SECTION 5071. Arkansas Code § 20–59–506(b)(2), concerning the review of proposed rules concerning the Grade “A” milk industry, is amended to read as follows:

<< AR ST § 20–59–506 >>

(2) The ~~Director~~ **Secretary** of the Department of Health and the board may adopt rules and regulations pertaining to the Grade “A” milk industry of this state in times of emergency or natural disaster without notice to the committee.

SECTION 5072. Arkansas Code § 20–60–204(a) and (b), concerning regulation of labeling, sanitary standards, practices, and procedures for livestock producers, are amended to read as follows:

<< AR ST § 20–60–204 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Health shall, by regulation and under such conditions as to labeling, sanitary standards, practices, and procedures as he or she may prescribe, exempt from specific provisions of this subchapter:

(A) Livestock producers with respect to livestock carcasses and parts thereof, and meat food products, processed by them from livestock of their own raising on their own farms and used by them for personal or private consumption, but in no instance where the product is to be offered or used for public consumption;

(B) Any person engaged in slaughtering livestock or processing livestock carcasses or parts thereof or meat food products for intrastate commerce and the articles so processed by the person, whenever the ~~director~~ **secretary** determines that it would be impracticable to provide inspection and that the exemption will aid in the effective administration of this subchapter;

(C) Persons slaughtering livestock or otherwise processing or handling livestock carcasses or parts thereof, or meat food products, which have been or are to be processed as required by recognized religious dietary laws, to the extent that the ~~director~~ **secretary** determines is necessary to avoid conflict with the requirements while still effectuating the purposes of this subchapter; and

(D) Any establishment engaged in slaughtering livestock or processing livestock carcasses or parts thereof, or meat food products for intrastate commerce, and the articles so processed by the establishment when the establishment is subject to inspection under a city ordinance which sets standards in conformity with the minimum standards determined by the ~~director~~ **secretary**.

(2) The ~~director~~ **secretary** may, by order, suspend or terminate any exemption under this section with respect to any person whenever he or she finds that the action will aid in effectuating the purposes of this subchapter.

(b) This subchapter shall not apply to any act or transaction subject to regulation under the Federal Meat Inspection Act, where the standards required under the federal act are in conformity with the minimum standards determined by the ~~director~~ **secretary**.

SECTION 5073. Arkansas Code § 20–60–204(c)(3)(A), concerning regulation of labeling, sanitary standards, practices, and procedures for livestock producers, is amended to read as follows:

<< AR ST § 20–60–204 >>

(A) The custom establishment must comply with the regulations which the ~~director~~ **secretary** is authorized to promulgate to assure that any carcasses, parts thereof, meat, or meat food products prepared or any containers or packages containing uninspected, exempted custom products are separated at all times from inspected carcasses, parts thereof, or meat, or meat food products prepared for sale;

SECTION 5074. Arkansas Code § 20–60–205(d), concerning the penalties for violating the Arkansas Meat and Meat Products Inspection Act, is amended to read as follows:

<< AR ST § 20-60-205 >>

(d) Nothing in this subchapter shall be construed as requiring the ~~Director~~ **Secretary** of the Department of Health to report violations of this subchapter for criminal prosecution whenever the ~~director~~ **secretary** believes that the public interest will be adequately served and compliance with this subchapter obtained by a suitable written notice of warning.

SECTION 5075. Arkansas Code § 20-60-206 is amended to read as follows:

<< AR ST § 20-60-206 >>

20-60-206. Director Secretary of the Department of Health — Powers and duties.

(a)(1) The ~~Director~~ **Secretary** of the Department of Health shall promulgate such rules and regulations and appoint such veterinarians and other qualified personnel as are necessary to carry out the purposes or provisions of this subchapter. The rules and regulations shall be in conformity with the rules and regulations under the Federal Meat Inspection Act as now in effect and with subsequent amendments thereof unless they are considered by the ~~director~~ **secretary** as not to be in accord with the objectives of this subchapter.

(2) Notice of proposed rules and regulations shall be given all establishments licensed under this subchapter. A hearing shall be called by the ~~director~~ **secretary** at which proponents and opponents of the proposed rules and regulations shall be given the opportunity to present arguments supporting their positions. The time, place, and procedure for the hearing shall be determined by the ~~director~~ **secretary**. No proposed rules and regulations shall become effective until after the hearing.

(b) The ~~director~~ **secretary** may cooperate with the United States Government in carrying out the provisions of this subchapter and the Federal Meat Inspection Act.

SECTION 5076. Arkansas Code § 20-60-208(a), concerning an application for a license or exemption for meat food processing, is amended to read as follows:

<< AR ST § 20-60-208 >>

(a) Applications for inspection or exemption shall be made on forms furnished by the ~~Director~~ **Secretary** of the Department of Health.

SECTION 5077. Arkansas Code § 20-60-208(d), concerning an application for a license or exemption for meat food processing, is amended to read as follows:

<< AR ST § 20-60-208 >>

(d) Before any license is issued, an inspection shall be made by the ~~director~~ **secretary** to determine the acceptability of the establishment to do business as desired by the applicant in his or her application for license or exemption.

SECTION 5078. Arkansas Code § 20-60-209 is amended to read as follows:

<< AR ST § 20-60-209 >>

20-60-209. Inspection and sanitary practices required.

(a) Each official establishment at which livestock are slaughtered or livestock carcasses or parts thereof or meat food products are processed for intrastate commerce shall have the premises, facilities, and equipment inspected and shall be operated in accordance with such sanitary practices as are required by rules or regulations prescribed by the ~~Director~~ **Secretary** of the Department of Health for the purpose of preventing the entry into and movement in commerce of carcasses, parts thereof, and meat food products which are unwholesome or adulterated.

(b) No livestock carcasses or parts thereof, or meat food product, shall be admitted into any official establishment unless they have been prepared only under inspection pursuant to this subchapter or the Federal Meat Inspection Act or their admission is permitted by rules or regulations prescribed by the ~~director~~ **secretary** under this subchapter.

(c) The ~~director~~ **secretary** shall refuse to render inspection to any establishment whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

SECTION 5079. Arkansas Code § 20–60–210(a)–(c), concerning inspection procedures for the commerce of livestock carcasses, are amended to read as follows:

<< AR ST § 20–60–210 >>

(a) For the purpose of preventing the entry into or movement in intrastate commerce of any livestock carcass, part thereof, or meat food product which is unwholesome or adulterated and is intended for or capable of use as human food, the ~~Director~~ **Secretary** of the Department of Health shall, where and to the extent considered by him or her necessary, cause to be made by inspectors antemortem inspection of livestock in any official establishment where livestock are slaughtered for such commerce.

(b) For the purpose stated in subsection (a) of this section, the ~~director~~ **secretary**, whenever slaughtering or other processing operations are being conducted, shall cause to be made by inspectors postmortem inspection of the carcasses and parts thereof of each animal slaughtered in any official establishment. He or she shall cause to be made by inspectors an inspection of all meat food products processed in any official establishment in which meat food products are processed for intrastate commerce.

(c) The ~~director~~ **secretary** shall also cause, at any time, such quarantine, segregation, and reinspection of livestock, livestock carcasses, and parts thereof, and meat food products in official establishments as he or she deems necessary to effectuate the purposes of this subchapter.

SECTION 5080. Arkansas Code § 20–60–211 is amended to read as follows:

<< AR ST § 20–60–211 >>

20–60–211. Withdrawal and denial of inspection.

(a) The ~~Director~~ **Secretary** of the Department of Health may withdraw or otherwise deny inspection under this subchapter with respect to any establishment for such period as he or she deems necessary to effectuate the purposes of this subchapter for any violation of the subchapter or any requirements thereunder by the operation of the establishment.

(b)(1) However, before a withdrawal or denial of inspection is ordered, the ~~director~~ **secretary** shall give the affected establishment an opportunity for a hearing at which the establishment may present evidence that it has not violated the subchapter or any requirements thereunder.

(2) The hearing shall be held after notice to the establishment in such manner as the ~~director~~ **secretary** shall determine by his or her rules and regulations.

SECTION 5081. Arkansas Code § 20–60–212(a), concerning the cost of inspection for overtime or holiday work, is amended to read as follows:

<< AR ST § 20–60–212 >>

(a) The cost of inspection rendered under this subchapter shall be borne by this state. The cost of overtime and holiday work performed in establishments subject to the provisions of this subchapter at such rates as the ~~Director~~ **Secretary** of the Department of Health may determine shall be borne and paid by the establishments. An inspector performing overtime and holiday work shall be treated as though he or she were on compensatory leave at such compensation as shall equal the rates set by the ~~director~~ **secretary**.

SECTION 5082. Arkansas Code § 20–60–213(a)(4), concerning the labeling and marking of meat or meat food products, is amended to read as follows:

<< AR ST § 20–60–210 >>

(4) The ~~Director~~ **Secretary** of the Department of Health may by rules or regulations require additional marks or label information to appear on livestock carcasses or parts thereof or meat food products when they leave the official establishments or at the time of their transportation or sale in this state. He or she may permit reasonable variations and grant exemptions from the marking and labeling requirements of this section in any number not in conflict with the purposes of this subchapter.

SECTION 5083. Arkansas Code § 20–60–213(c), concerning the labeling and marking of meat or meat food products, is amended to read as follows:

<< AR ST § 20–60–213 >>

(c)(1) No livestock carcasses or parts thereof or meat food products inspected or required to be inspected pursuant to the provisions of this subchapter shall be sold or offered for sale by any person, firm, or corporation under any false or deceptive name, but established trade names which are usual to the articles and which are not false or deceptive and which are approved by the ~~director~~ **secretary** are permitted.

(2) If the ~~director~~ **secretary** has reason to believe that any advertising or any label in use or prepared for use is false or misleading in any particular, he or she may direct that the use of the advertising or label be withheld unless it is modified in such manner as he or she may prescribe so that it will not be false or misleading.

(3) If the person using or proposing to use any advertising or the label does not accept the determination of the ~~director~~ **secretary**, he or she may request a hearing, but the use of the advertising or the label shall, if the ~~director~~ **secretary** so directs, be withheld pending hearing and final determination by the ~~director~~ **secretary**.

(4) Any determination by the ~~director~~ **secretary** shall be conclusive unless within thirty (30) days after the receipt of notice of the final determination, the person adversely affected thereby appeals to the Pulaski County Circuit Court.

SECTION 5084. Arkansas Code § 20–60–214(3), concerning prohibited acts under the Arkansas Meat and Meat Products Inspection Act, is amended to read as follows:

<< AR ST § 20–60–214 >>

(3) Falsely making or issuing, altering, forging, simulating, counterfeiting, or using without proper authority any official inspection certificate, memorandum, mark, or other identification, or device for making a mark or identification, used in connection with inspection under this subchapter; or causing, procuring, aiding, assisting in, or being a party to false making, issuing, altering, forging, simulating, counterfeiting, or unauthorized use; or knowingly possessing, without promptly notifying the ~~Director~~ **Secretary** of the Department of Health or his or her representative, uttering, publishing, or using as true, or causing to be uttered, published, or used as true, any falsely made or issued, altered, forged, simulated, or counterfeited official inspection certificate, memorandum, mark, or other identification, or device for making a mark or identification; or representing that any article has been officially inspected under the authority of this subchapter when the article has in fact not been so inspected; or knowingly making any false representation in any certificate prescribed by the ~~director~~ **secretary** in rules or regulations under this subchapter or any form resembling the certificate;

SECTION 5085. Arkansas Code § 20–60–214(7), concerning prohibited acts under the Arkansas Meat and Meat Products Inspection Act, is amended to read as follows:

<< AR ST § 20–60–214 >>

(7) The refusal to permit access by any authorized representative of the ~~director~~ **secretary** at all reasonable times to the premises of an establishment in this state at which livestock are slaughtered or the carcasses or parts thereof or meat food products are processed for intrastate commerce upon presentation of appropriate credentials;

SECTION 5086. Arkansas Code § 20–60–214(10), concerning prohibited acts under the Arkansas Meat and Meat Products Inspection Act, is amended to read as follows:

<< AR ST § 20–60–214 >>

(10) Delivering, receiving, transporting, selling, or offering for sale or transportation in intrastate commerce for human consumption any livestock carcass or part thereof or meat food product which has been processed in violation of any requirements under this subchapter except as may be authorized by and pursuant to rules and regulations prescribed by the ~~director~~ **secretary**;

SECTION 5087. Arkansas Code § 20–60–215(a), concerning records under the Arkansas Meat and Meat Products Inspection Act, is amended to read as follows:

<< AR ST § 20–60–215 >>

(a) For the purpose of enforcing the provisions of this subchapter, persons engaged in this state in the business of processing for intrastate commerce or transporting, shipping, or receiving in commerce livestock slaughtered for human consumption or meat or meat food products, or holding articles so received, shall maintain the records as the ~~Director~~ **Secretary** of the Department of Health by regulation may require, showing, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, or disposition of the articles and shall, upon the request of an authorized representative of the ~~director~~ **secretary**, permit him or her at reasonable times to have access to and to copy all the records.

SECTION 5088. Arkansas Code § 20–60–303 is amended to read as follows:

<< AR ST § 20–60–303 >>

20–60–303. Regulatory authority of the ~~Director~~ Secretary of the Department of Health.

The ~~Director~~ **Secretary** of the Department of Health shall promulgate such rules and regulations as are necessary to carry out the purposes and provisions of this subchapter.

SECTION 5089. Arkansas Code § 20–60–306 is amended to read as follows:

<< AR ST § 20–60–306 >>

20–60–306. Acceptance service — Cost.

The cost of providing the acceptance service and ensuing certification shall be borne and paid by the seller, slaughterer or processor, or vendor or merchant requesting the service at such rate as the ~~Director~~ **Secretary** of the Department of Health may determine as being necessary to defer the cost of this service.

SECTION 5090. Arkansas Code § 20–64–203 is amended to read as follows:

<< AR ST § 20–64–203 >>

20–64–203. Manufacturers and wholesalers.

No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the ~~Director~~ **Secretary** of the Department of Health.

SECTION 5091. Arkansas Code § 20–64–204 is amended to read as follows:

<< AR ST § 20–64–204 >>

20–64–204. Qualification for licenses.

No license shall be issued under § 20–64–203 unless and until the applicant therefor has furnished proof satisfactory to the ~~Director~~ **Secretary** of the Department of Health:

- (a) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character;
- (b) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application. No license shall be granted to any person who has within five (5) years been convicted of a willful violation of any law of the United States, or of any state, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict. The ~~director~~ **secretary** may suspend or revoke any license for cause.

SECTION 5092. Arkansas Code § 20–64–205(3), concerning a sale on written orders to dispense narcotic drugs under the Uniform Narcotic Drug Act, is amended to read as follows:

<< AR ST § 20–64–205 >>

- (3) Use of Official Written Orders. An official written order for any narcotic drug shall be signed in quadruplicate by the person giving said order or his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein, and one (1) copy shall be sent to the ~~Director~~ **Secretary** of the Department of Health not later than the 10th of the month following the month during which the order was made. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such

order for a period of two (2) years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this subchapter. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with the federal narcotic laws, respecting the requirements governing the use of order forms, and the purchaser has sent a signed copy of the order to the ~~director~~ **secretary** as aforesaid.

SECTION 5093. Arkansas Code § 20-64-206(1), concerning sales by apothecaries under the Uniform Narcotic Drug Act, is amended to read as follows:

<< AR ST § 20-64-206 >>

(1) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription or an oral prescription in pursuance to regulations, promulgated by the ~~Director~~ **Secretary** of the Department of Health under authority of § 20-64-219, of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws of the person prescribing. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two (2) years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this subchapter. The prescription must not be refilled.

SECTION 5094. Arkansas Code § 20-64-208(a)(1), concerning preparations exempted under the Uniform Narcotic Drug Act, is amended to read as follows:

<< AR ST § 20-64-208 >>

(1) Administering, dispensing, or selling at retail any drug subject to this subchapter under any circumstances that the ~~Director~~ **Secretary** of the Department of Health determines, after reasonable notice and opportunity for hearing, not to be dangerous to the public health, or promotive of addiction-forming or addiction-sustaining results upon the user, or harmful to the public health, safety, or morals, and by order so proclaims. In arriving at his determination, the ~~Director~~ **Secretary** of the Department of Health shall consult with the Drug Enforcement Administration of the Treasury Department of the United States and give due weight to its investigations and determinations;

SECTION 5095. Arkansas Code § 20-64-209(5), concerning records to be kept under the Uniform Narcotic Drug Act, is amended to read as follows:

<< AR ST § 20-64-209 >>

(5) Form and Preservation of Records. The form of records shall be prescribed by the ~~Director~~ **Secretary** of the Department of Health. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacturer, and the date of such production or removal from process of manufacturer; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two (2) years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with

this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

SECTION 5096. Arkansas Code § 20-64-214 is amended to read as follows:

<< AR ST § 20-64-214 >>

20-64-214. Narcotic drugs to be delivered to state official, etc.

Upon delivery to the ~~Director~~ **Secretary** of the Department of Health of any narcotic drugs discarded by the owner thereof or other person entitled to the possession or custody thereof, and upon the ~~Director~~ **Secretary** of the Department of Health delivering to such person an itemized receipt therefor, the ~~Director~~ **Secretary** of the Department of Health is empowered to destroy such narcotic drugs; provided, that the ~~Director~~ **Secretary** of the Department of Health shall keep for a period of three (3) years from the date of destruction a record of such transaction, showing the name and address of the person delivering the narcotic drugs, an itemized description thereof, the date and place of delivery, and the date of destruction. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

(a) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the Director of the Drug Enforcement Administration by the officer who destroys them;

(b) Upon written application by the ~~Director~~ **Secretary** of the Department of Health, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them except heroin and its salts and derivatives, to said ~~Director~~ **Secretary** of the Department of Health, for distribution or destruction, as hereinafter provided;

(c) Upon application by any hospital within this state not operated for private gain, the ~~Director~~ **Secretary** of the Department of Health may in his discretion deliver any narcotic drugs that have come into his custody by authority of this section to the applicant for medicinal use. The ~~Director~~ **Secretary** of the Department of Health may from time to time deliver excess stocks of such narcotic drugs to the Director of the Drug Enforcement Administration or may destroy the same;

(d) The ~~Director~~ **Secretary** of the Department of Health shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal and state officers charged with the enforcement of federal and state narcotic laws.

SECTION 5097. Arkansas Code § 20-64-219 is amended to read as follows:

<< AR ST § 20-64-219 >>

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 5098. Arkansas Code § 20–64–303 is amended to read as follows:

<< AR ST § 20–64–303 >>

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 5099. Arkansas Code § 20–64–308 is amended to read as follows:

<< AR ST § 20–64–308 >>

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.

(2) The notice shall advise that the article, drug, or other thing seized and forfeited will be destroyed or sold by the ~~director~~ **secretary** at the expiration of thirty (30) days from the date of publication of the notice.

(3) Any person claiming any interest in the article, equipment, drug, or other thing may, at any time within the thirty (30) days after the publication of the notice, petition the ~~director~~ **secretary** for a hearing to be held in the ~~director's~~ **secretary's** office in Little Rock.

(4) The ~~director~~ **secretary** shall set a date for the hearing not later than ten (10) days after receiving the written request at which time witnesses shall be sworn and evidence shall be taken.

(5) Within fifteen (15) days after such hearing, the ~~director~~ **secretary** shall enter his or her written findings of fact and order upon the testimony so presented.

(6) The findings of fact and order of the ~~director~~ **secretary** may be appealed to the Pulaski County Circuit Court by lodging with the court within fifteen (15) days after the ~~director's~~ **secretary's** order has been entered a transcript of record of the hearing held before the ~~director~~ **secretary**. The circuit court shall hear no new evidence on such appeal and shall render its judgment only on errors of law.

(7) An appeal from the judgment of the circuit court may be taken to the Supreme Court.

(b)(1) If the ~~director~~ **secretary** receives no written petition for a hearing within thirty (30) days from the date of the publication of notice as provided in this section, the ~~director~~ **secretary** shall, in his or her discretion, proceed to take bids on the article, equipment, drug, or other things seized and forfeited under § 20–64–307 and shall sell them to the highest bidder, or he or she may destroy the articles, equipment, drugs, or other things and shall preserve a written record thereof for two (2) years.

(2) The proceeds for the sale of the articles, drugs, or other things shall be deposited with the Treasurer of State as nonrevenue receipts for credit to the State Apportionment Fund as general revenues to be distributed for the respective purposes as provided by law.

SECTION 5100. Arkansas Code § 20–64–316 is amended to read as follows:

<< AR ST § 20–64–316 >>

20–64–316. Authority of Department of Health employees to investigate, examine, and inspect.

Any officer or employee of the Department of Health designated by the ~~Director~~ **Secretary** of the Department of Health to conduct examinations, investigations, or inspections under this subchapter relating to depressant or stimulant drugs or to counterfeit drugs may, when so authorized by the ~~director~~ **secretary**:

- (1) Carry firearms;
- (2) Execute and serve search warrants and arrest warrants;
- (3) Execute seizure by process issued pursuant to §§ 20–64–307 and 20–64–308;
- (4) Make arrests without warrant for offenses under this subchapter with respect to drugs if the offense is committed in his or her presence; and
- (5) Make seizures of drugs or containers or equipment, punches, dies, plates, stone, labeling, or other things, if they are, or he or she has reasonable grounds to believe that they are, subject to seizure and condemnation under §§ 20–64–307 and 20–64–308.

SECTION 5101. Arkansas Code § 20–64–503(4), concerning the definition of “controlled substance” under the laws concerning controlled substances and legend drugs, is amended to read as follows:

<< AR ST § 20–64–503 >>

- (4) “Controlled substance” means those substances, drugs, or immediate precursors listed in Schedules I through VI of the Uniform Controlled Substances Act, § 5–64–101 et seq., and revised by the ~~Director~~ **Secretary** of the Department of Health pursuant to his or her authority under §§ 5–64–214 — 5–64–216;

SECTION 5102. Arkansas Code § 20–77–1607(b)(4), concerning the Advisory Council to the Arkansas Youth Suicide Prevention Task Force, is amended to read as follows:

<< AR ST § 20–77–1607 >>

- (4) The ~~Commissioner of Education~~ **Secretary of the Department of Education** shall appoint one (1) member;

SECTION 5103. Arkansas Code § 20–78–206(a)(1)(B), concerning the rules of the Division of Child Care and Early Childhood Education, is amended to read as follows:

<< AR ST § 20–78–206 >>

- (B) In developing proposed rules, the division shall consult with the ~~Director~~ **Secretary** of the Department of Health or his or her designated representative in regard to rules relating to health.

SECTION 5104. Arkansas Code § 20–78–206(a)(3), concerning the rules of the Division of Child Care and Early Childhood Education, is amended to read as follows:

<< AR ST § 20–78–206 >>

(3) The ~~director~~ **Secretary of the Department of Health** and the ~~commissioner~~ **Secretary of the Department of Education** and their designated representatives are directed to cooperate with and assist the division in developing rules and regulations in the respective areas of health and education.

SECTION 5105. Arkansas Code § 20–78–703(b)(1), concerning the Rita Rowell Hale Prenatal and Early Childhood Nurse Home Visitation Program Advisory Council, is amended to read as follows:

<< AR ST § 20–78–703 >>

(1) Three (3) members from the Department of Health to be appointed by the Governor after consulting the ~~Director~~ **Secretary** of the Department of Health and subject to confirmation by the Senate;

SECTION 5106. Arkansas Code § 20–78–708 is amended to read as follows:

<< AR ST § 20–78–708 >>

20–78–708. Funding.

The ~~Director~~ **Secretary** of the Department of Health is authorized to utilize available general revenue savings and allowable federal funds in support of the activities described in this subchapter in the event that sufficient funds are not allocated for the Rita Rowell Hale Prenatal and Early Childhood Nurse Home Visitation Program herein. The ~~director~~ **secretary** is authorized to transfer appropriations and funds as necessary but only for the purposes provided in this subchapter. Upon approval of the Chief Fiscal Officer of the State and review by the Legislative Council, the transfers shall be made upon the books of the Department of Finance and Administration, the Auditor of State, and the Treasurer of State.

SECTION 5107. Arkansas Code § 23–79–1201(3)(B), concerning the definition of “persons at high risk for colorectal cancer” under the laws governing coverage for colorectal cancer screening, is amended to read as follows:

<< AR ST § 23–79–1201 >>

(B) Any additional or expanded definition of “persons at high risk for colorectal cancer” as recognized by medical science and determined by the ~~Director~~ **Secretary** of the Department of Health in consultation with the University of Arkansas for Medical Sciences.

SECTION 5108. Arkansas Code § 23–79–1202(d)(1)(B), concerning coverage for colorectal cancer examinations, is amended to read as follows:

<< AR ST § 23–79–1202 >>

(B) Any additional medically recognized screening tests for colorectal cancer required by the ~~Director~~ **Secretary** of the Department of Health, determined in consultation with appropriate healthcare organizations.

SECTION 5109. Arkansas Code § 23-99-702(2), concerning the definition of “director” under the laws establishing grievance systems and quality assessment and improvement systems, is repealed.

<< AR ST § 23-99-702 >>

(2) “~~Director~~” means the ~~Director~~ of the Department of Health;

SECTION 5110. Arkansas Code § 23-99-703(b)(2), concerning a health carrier and network grievance system, is amended to read as follows:

<< AR ST § 23-99-703 >>

(2) Submit in the form and manner prescribed by the ~~Director~~ **Secretary** of the Department of Health a periodic report which shall include:

(A) A written description of the processes and procedures for resolving grievances; and

(B) The total number of grievances handled through the grievance system, including a compilation of the dates of the grievances, the reason for the grievances, and resolutions of each grievance.

SECTION 5111. Arkansas Code § 23-99-703(c), concerning a health carrier network grievance system, is amended to read as follows:

<< AR ST § 23-99-703 >>

(c) In consultation with the Insurance Commissioner, the ~~director~~ **secretary** may promulgate rules and regulations in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the provisions of this subchapter to enable the state to be properly informed of quality issues within the state and to adequately respond to any quality concerns expressed through grievances.

SECTION 5112. Arkansas Code § 23-99-704(a)(3), concerning health carrier quality assessment and improvement systems, is amended to read as follows:

<< AR ST § 23-99-704 >>

(3) Submit to the ~~Director~~ **Secretary** of the Department of Health in the time, manner, and form prescribed the following information:

(A) A written description of any quality assessment and quality improvement systems; and

(B) Findings of relevant quality data as determined by the ~~director~~ **secretary**.

SECTION 5113. Arkansas Code § 23-99-704(b), concerning health carrier quality assessment and improvement systems, is amended to read as follows:

<< AR ST § 23-99-704 >>

(b) In consultation with the Insurance Commissioner, the ~~director~~ **secretary** may promulgate rules and regulations in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the provisions of this subchapter to enable the state to be properly informed of quality issues within the state and to adequately respond to any quality concerns found through the outcome data.

SECTION 5114. Arkansas Code § 23-99-705(b), concerning the applicability and scope of rules regarding a health carrier, is amended to read as follows:

<< AR ST § 23-99-705 >>

(b) In terms of the ~~Director~~ **Secretary** of the Department of Health's regulatory authority pursuant to §§ 23-99-703 and 23-99-704, such authority shall apply to the quality of care provided by health carriers and networks operating in this state and shall not apply to the benefits offered by any health carrier and network or to the administration of such benefits.

SECTION 5115. Arkansas Code § 23-99-706 is amended to read as follows:

<< AR ST § 23-99-706 >>

23-99-706. Enforcement and penalties.

The ~~Director~~ **Secretary** of the Department of Health shall have the power to implement and enforce this subchapter.

SECTION 5116. Arkansas Code Title 25, Chapter 9, is repealed.

Chapter 9 — Department of Health

<< Repealed: AR ST § 25-9-101 >>

~~25-9-101. Creation — Director — Organization — Personnel.~~

~~(a)(1) There is created the Department of Health, which is to be established if the Governor orders the separation of the Division of Health of the Department of Health and Human Services from the Department of Health and Human Services.~~

~~(2) Unless stated otherwise, all references in this chapter to “director” shall mean the Director of the Department of Health, if established, and otherwise the Director of the Division of Health of the Department of Health and Human Services.~~

~~(b)(1)(A) The director, with the advice and consent of the Governor, shall appoint the heads of the respective units of the Division of Health of the Department of Health and Human Services or the Department of Health.~~

~~(B) All other personnel of the Department of Health shall be employed by and shall serve at the pleasure of the director.~~

~~(2) However, nothing in this section shall be so construed as to reduce any right that an employee of the Division of Health of the Department of Health and Human Services or the Department of Health has under any civil service or merit system.~~

- (c)(1) Each unit of the Department of Health shall be under the direction, control, and supervision of the director.
- (2) The director may delegate his or her functions, powers, and duties to various units of the Department of Health as he or she shall deem desirable and necessary for the effective and efficient operation of the Department of Health.
- (d)(1) The Division of Health of the Department of Health and Human Services or the Department of Health shall maintain an Office of Oral Health.
- (2) The Director of the Office of Oral Health shall be an experienced public health dentist licensed to practice under the Arkansas Dental Practice Act, § 17-82-101 et seq.
- (3) The Director of the Office of Oral Health shall:
- (A) Plan, direct, and coordinate all dental public health programs with other local, state, and national health programs;
 - (B) Serve as the department's chief advisor on matters involving oral health; and
 - (C) Plan, implement, and evaluate all oral health programs within the department.

<< Repealed: AR ST § 25-9-103 >>

~~25-9-103. Patient care providers — Wages — Required withholding — Fringe benefits.~~

- (a) The Department of Health is authorized to pay wages and required state withholding, federal withholding, required matching, and other fringe benefits for patient care part-time intermittent contractual personnel who must be employed in order to provide services in the home.
- (b) These payments will be made from the appropriation for professional fees and services.

<< Repealed: AR ST § 25-9-104 >>

~~25-9-104. Additional compensation — County Health Unit Administrators.~~

- (a) Any employee serving in the capacity of County Health Unit Administrator shall be eligible for up to ten percent (10%) of additional compensation within the grade during the period of time in which the employee occupies the position.
- (b) Employees on the highest level of their grade shall be eligible for additional compensation in an amount not to exceed five and one-half percent (5.5%) of their current salary upon assuming responsibility, and this amount shall not be construed as exceeding the line item maximum for the grade for that position.
- (c)(1) The Department of Health shall certify to the Chief Fiscal Officer of the State the assignment of duties of each employee in this position, the length of the assignment, and the location and reason for the assignment.
- (2) The Chief Fiscal Officer of the State shall approve the request prior to the awarding of additional compensation.

<< Repealed: AR ST § 25-9-105 >>

~~25-9-105. Home health on-call and visit pay.~~

(a) ~~The Department of Health is hereby authorized to compensate the following personnel responsible for providing in-home health care as necessary to maintain continuity of care outside routine working hours on weekdays and on weekends or holidays:~~

- ~~(1) R055 Hlth Public Hlth Nursing Prog. Coord;~~
- ~~(2) L082 Nursing Services Specialist;~~
- ~~(3) L033 Home Health Nurse I;~~
- ~~(4) L034 Home Health Nurse II;~~
- ~~(5) L138 Speech Pathologist I;~~
- ~~(6) L140 Speech Pathologist II;~~
- ~~(7) L142 Speech Pathologist Supervisor;~~
- ~~(8) L102 Physical Therapist I;~~
- ~~(9) L104 Physical Therapist II;~~
- ~~(10) L106 Physical Therapy Supervisor;~~
- ~~(11) M086 Social Worker I;~~
- ~~(12) M088 Social Worker II;~~
- ~~(13) L086 Occupational Therapist I;~~
- ~~(14) L088 Occupational Therapist II;~~
- ~~(15) L090 Occupational Therapist Supervisor;~~
- ~~(16) R056 Hlth. Pub. Hlth. Nursing Program Administrator;~~
- ~~(17) L047 LPN I;~~
- ~~(18) L049 LPN II;~~
- ~~(19) L154 Public Hlth. Nurse I;~~
- ~~(20) L156 Public Hlth. Nurse II;~~
- ~~(21) L021 PH Technician II; and~~
- ~~(22) L155 PH Technician I.~~

(b)(1) ~~Visit pay shall not exceed forty-five dollars (\$45.00) per visit.~~

~~(2) Employees requested to be on-call or on standby, or both, for visiting on nights, weekends or holidays, or both, will be eligible to receive on-call pay not to exceed thirty dollars (\$30.00) per day.~~

~~(3)(A) Provided, however, no compensation shall be paid to any employees required to be on-call or on standby, or both, who fail to respond after the second notification that their services are needed.~~

(B) In the event of equipment or paging device malfunction, the penalty shall not apply.

(4) All compensated services shall be provided as directed by the department.

(5)(A) All visit and on-call pay shall be paid from funds from in-home services extra salaries as appropriated in this act.

(B) The compensation for visit and on-call pay when added to the employee's regular salary and benefits shall not be construed as exceeding the maximum annual salary as described in the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq.

<< Repealed: AR ST § 25-9-106 >>

~~25-9-106. Community Alcohol Safety Program — Definition.~~

~~(a) On or after July 1, 1999, all powers, duties, functions, records, and funds administered or provided by other support divisions within the Arkansas Department of Transportation for the Traffic Safety Section of the Planning and Research Division regarding or relating to the state alcohol program, commonly known as the “Community Alcohol Safety Program”, administered by the Arkansas Department of Transportation under the laws of this state and transferred to the Arkansas Department of Transportation by Acts 1989, 1st Ex. Sess., No. 153, shall be transferred by a type 2 transfer, as defined in § 25-2-105, to the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services.~~

~~(b) As used in this section, “funds” means all funds derived from the State Administration of Justice Fund under § 16-10-310 for usage by the state alcohol program, education fees paid by offenders of the Omnibus DWI or BWI Act, § 5-65-101 et seq., and the appropriation for community alcohol safety.~~

<< Repealed: AR ST § 25-9-107 >>

~~25-9-107. Transfer of personnel under § 25-9-106.~~

~~All personnel transferred from the Arkansas Department of Transportation under § 25-9-106 are eligible for employment under this section in a comparable position with the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services.~~

SECTION 5117. Arkansas Code Title 25, Chapter 42, is repealed.

Chapter 42 —

Health Information Technology

<< Repealed: AR ST § 25-42-101 >>

~~25-42-101. Purpose.~~

~~The purpose of this chapter is to:~~

~~(1) Establish the Office of Health Information Technology; and~~

~~(2) Authorize the Office of Health Information Technology to transfer to a nonprofit corporation the State Health Alliance for Records Exchange.~~

<< Repealed: AR ST § 25-42-102 >>

~~25-42-102. Policy.~~

~~(a) The coordination of health information technology activities throughout Arkansas by the Office of Health Information Technology is necessary to obtain the maximum potential value from the investment of federal and state resources to increase the use of health information technology.~~

~~(b) The exchange of health information made possible by the State Health Alliance for Records Exchange can improve the quality of health of Arkansas citizens by reducing the potential for medical errors, reducing the incidence of redundant tests and procedures, improving patient safety, and making the delivery of healthcare services more efficient and affordable.~~

~~(c) The Office of Health Information Technology and the State Health Alliance for Records Exchange shall respect and safeguard each person's privacy interests in his or her health and medical information.~~

<< Repealed: AR ST § 25-42-103 >>

~~25-42-103. Office of Health Information Technology—Creation.~~

~~The Office of Health Information Technology is created within the Department of Health.~~

<< Repealed: AR ST § 25-42-104 >>

~~25-42-104. Definitions.~~

~~As used in this chapter:~~

~~(1) “Agency” means any agency, board, commission, public instrumentality, political subdivision, or any of the foregoing entities acting on behalf of the State of Arkansas that store, gather, or generate health information;~~

~~(2) “Deidentified” means the same as the meaning under the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191;~~

~~(3) “Health information” means any information, whether oral or recorded in any form or medium, that:~~

~~(A) Is created or received by:~~

~~(i) A provider of health care;~~

~~(ii) A health plan;~~

~~(iii) A public health authority;~~

~~(iv) An employer;~~

~~(v) A health insurer;~~

~~(vi) A school or university; or~~

~~(vii) A health care clearinghouse; and~~

~~(B) Relates to the:~~

~~(i) Past, present, or future physical or mental health or condition of an individual;~~

~~(ii) Provision of health care to an individual; or~~

~~(iii) Past, present, or future payment for the provision of health care to an individual;~~

~~(4) “Health information exchange” means the electronic movement of health-related information among organizations according to nationally recognized standards;~~

~~(5) “Health information technology” means the application of information processing involving both computer hardware and software and other technology devices that deal with the storage, retrieval, sharing, and use of health care information, data, and knowledge for communication and decision-making;~~

~~(6) “Identified” means the same as the meaning under the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191;~~

~~(7) “Nonprofit corporation” means a corporation no part of the income of which is distributable to its members, directors, or officers as under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.; and~~

~~(8) “State Health Alliance for Records Exchange” means the entity responsible for the processes and procedures that enable the electronic exchange of interoperable health information in Arkansas.~~

<< Repealed: AR ST § 25-42-105 >>

~~25-42-105. Duties and responsibilities.~~

~~(a) The Office of Health Information Technology shall coordinate the health information technology initiatives of the state with relevant executive branch agencies, including without limitation state boards, commissions, nonprofit corporations, and institutions of higher education.~~

~~(b) The Office of Health Information Technology Coordinator shall be selected and serve in a manner prescribed by the Director of the Department of Health.~~

~~(c) The office shall:~~

~~(1) Assure the effective coordination and collaboration of health information technology planning, development, implementation, and financing;~~

~~(2) Review all health information technology-related grant applications before submission to funding entities;~~

~~(3) Accept, receive, retain, disburse, and administer any state special or general revenue funds or federal funds specifically appropriated for health information technology;~~

~~(4) Make contracts and execute all instruments necessary or convenient for carrying out its business;~~

~~(5) Recommend to the State Board of Health regarding rules necessary to carry out the policies and objectives of this chapter;~~

~~(6) Plan, establish, and operate the State Health Alliance for Records Exchange until the time when the operational responsibility and authority for the State Health Alliance for Records Exchange is transferred to a nonprofit corporation; and~~

~~(7)(A) Establish reasonable fees or charges for the use of the State Health Alliance for Records Exchange to fund the operational costs of the State Health Alliance for Records Exchange and the office.~~

~~(B) Fees or charges established under subdivision (c)(7)(A) of this section shall be set with the input and guidance of the users of the State Health Alliance for Records Exchange, stakeholders, and other interested parties.~~

~~(C) Fees or charges established under subdivision (c)(7)(A) of this section shall not exceed the total cost of operating the State Health Alliance for Records Exchange, not including staffing costs for the State Health Alliance for Records Exchange and the office.~~

~~(D) Users of data under this chapter shall be charged in a manner that is proportional to their use of the State Health Alliance for Records Exchange.~~

~~(E) Revenue generated by the fees or charges under subdivision (c)(7) of this section shall be deposited into the Health Information Technology Fund, § 19-5-1244.~~

<< Repealed: AR ST § 25-42-106 >>

~~25-42-106. State Health Alliance for Records Exchange — Duties.~~

~~(a) The State Health Alliance For Records Exchange shall:~~

~~(1) Serve as the official health information exchange for the State of Arkansas;~~

~~(2) Be organized for the purpose of improving the health of Arkansans by:~~

~~(A) Promoting efficient and effective communication among multiple healthcare providers, including without limitation hospitals, physicians, payers, employers, pharmacies, laboratories, and other healthcare entities;~~

~~(B) Creating efficiencies in healthcare costs by eliminating redundancy in data capture and storage and reducing administrative, billing, and data collection costs;~~

~~(C) Creating the ability to monitor community health status; and~~

~~(D) Providing reliable information to healthcare consumers and purchasers regarding the quality and cost-effectiveness of health care, health plans, and healthcare providers;~~

~~(3)(A) Until a nonprofit corporation operates the State Health Alliance for Records Exchange, the State Health Alliance for Records Exchange shall be established and operated by the Office of Health Information Technology with the advice of the Health Information Exchange Council, consisting of the following members appointed by the Director of the Department of Health:~~

~~(i) The Office of Health Information Technology Coordinator;~~

~~(ii) A representative of the Department of Finance and Administration;~~

- (iii) A representative of the Department of Human Services;
- (iv) A representative of the Department of Information Systems;
- (v) A representative of the health insurance industry;
- (vi) A representative of the Arkansas Foundation for Medical Care, Inc.;
- (vii) A representative of the Arkansas Hospital Association, Inc.;
- (viii) A representative of the Arkansas Medical Society, Inc.;
- (ix) A representative of the Arkansas Minority Health Commission;
- (x) A representative of the Arkansas Nurses Association;
- (xi) A representative of the Division of Science and Technology of the Arkansas Economic Development Commission;
- (xii) A representative of the Arkansas Pharmacists Association;
- (xiii) A representative of the business community;
- (xiv) A representative of the Community Health Centers of Arkansas, Inc.;
- (xv) A representative of the University of Arkansas for Medical Sciences;
- (xvi) A representative of the Arkansas Health Care Association; and
- (xvii) Two (2) healthcare consumers.

(b) ~~The Chair of the Health Information Exchange Council shall be elected by the members of the council.~~

(c) ~~All members will serve until the operational responsibility and authority for the State Health Alliance for Records Exchange is transferred to a nonprofit corporation.~~

(d)(1) ~~The State Health Alliance for Records Exchange is not a healthcare provider and is not subject to claims under § 16-114-201 et seq.~~

~~(2) A person who participates in or subscribes to the services or information provided by the State Health Alliance for Records Exchange shall not be liable in any action for damages or cost of any nature that results solely from the person's use or failure to use the State Health Alliance for Records Exchange information or data that was imputed or retrieved under the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and regulations adopted under the act, state confidentiality laws and the rules of the State Health Alliance for Records Exchange as approved by the Office of Health Information Technology or the governing body of the nonprofit corporation.~~

~~(3) A person shall not be subject to antitrust or unfair competition liability based on membership or participation in the State Health Alliance for Records Exchange, which provides an essential governmental function for the public health and safety and enjoys state action immunity.~~

~~(e) A person who provides information and data to the State Health Alliance for Records Exchange retains a property right in the information or data but grants to the other participants or subscribers a nonexclusive license to retrieve and use that information or data under the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and any amendments and regulations adopted under the act, state confidentiality laws, and the rules of the State Health Alliance for Records Exchange.~~

~~(f) All processes or software developed, designed, or purchased by the State Health Alliance for Records Exchange shall remain the property of the State Health Alliance for Records Exchange subject to use by participants or subscribers under the rules of the State Health Alliance for Records Exchange.~~

~~(g) Patient-specific protected health information shall be disclosed only in accordance with the patient's authorization or in compliance with state confidentiality laws and the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and regulations under the act.~~

~~(h) No later than December 31, 2014, executive branch agencies, including state boards, commissions, nonprofit corporations, and institutions of higher education, that implement, acquire, or upgrade health information technology systems shall use health information technology systems and products that meet minimum standards adopted by the State Health Alliance for Records Exchange.~~

~~(i) All identified or deidentified health information contained in, stored in, submitted to, transferred by, or released from the State Health Alliance for Records Exchange is not disclosable under applicable state or federal law except to:~~

~~(1) A healthcare provider; or~~

~~(2) Other authorized person or entity as described by policies and rules promulgated by the State Board of Health or the State Alliance for Records Exchange.~~

~~(j)(1) Upon the transfer to a nonprofit corporation, the State Health Alliance for Records Exchange shall be governed under the bylaws and incorporation documents of the corporation.~~

~~(2) The bylaws and incorporation documents of the corporation shall further only the objectives and policies set forth in this chapter.~~

SECTION 5118. Arkansas Code § 26-57-1106(a)(2)(B), concerning the distribution of funds for breast cancer research and control, is amended to read as follows:

<< AR ST § 26-57-1106 >>

(B) The ~~Director~~ **Secretary** of the Department of Health shall be the disbursing officer for the Breast Cancer Control Fund, and the Chancellor of the University of Arkansas for Medical Sciences shall be the disbursing officer for the Breast Cancer Research Fund.

SECTION 5119. Arkansas Code § 27-3-103(b)(3), concerning the establishment of the Arkansas Public Transportation Coordination Council, is amended to read as follows:

<< AR ST § 27-3-103 >>

(3) The remaining seven (7) members of the Arkansas Public Transportation Coordination Council shall be:

- (A) The ~~Director~~ **Secretary** of the Department of Human Services or his or her designee;
- (B) The Director of State Highways and Transportation or his or her designee;
- (C) The ~~Director~~ **Secretary** of the Department of Health or his or her designee;
- (D) The Chair of the Arkansas Economic Development Council or his or her designee;
- (E) The ~~Executive~~ Director of the Arkansas Economic Development Commission or his or her designee;
- (F) The Director of the University of Arkansas Cooperative Extension Service or his or her designee; and
- (G) The Chair of the Arkansas Workforce Development Board or his or her successor or designee.

SECTION 5120. Arkansas Code § 27-101-405(a)(2), concerning the establishment of the Marine Sanitation Advisory Committee, is amended to read as follows:

<< AR ST § 27-101-405 >>

- (2) Two (2) members from the state at large to be appointed by the Governor after consulting with the ~~Director~~ **Secretary** of the Department of Health and the Director of the ~~Arkansas Department~~ **Division** of Environmental Quality; and

SECTION 5121. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 9 — Department of Human Services

<< AR ST § 25-43-901 >>

25-43-901. Department of Human Services.

There is created the Department of Human Services as a cabinet-level department.

<< AR ST § 25-43-902 >>

25-43-902. State entities transferred to Department of Human Services.

(a) The administrative functions of the following state entities are transferred to the Department of Human Services by a cabinet-level department transfer:

- (1) The Arkansas Alcohol and Drug Abuse Coordinating Council, created under § 20-64-1002;**
- (2) The Arkansas Drug Director, created under § 20-64-1001;**
- (3) The Arkansas State Council for Interstate Juvenile Supervision, created under § 9-29-401;**
- (4) The Board of Developmental Disabilities Services, created under § 20-48-203;**
- (5) The Civilian Student Training Program, created under § 12-61-124;**
- (6) The Department of Human Services, created under § 25-43-901;**
- (7) The Division of Aging, Adult, and Behavioral Services of the Department of Human Services, created under § 20-46-301;**

- (8) The Division of Child Care and Early Childhood Education, created under § 20–78–205;
- (9) The Division of Children and Family Services, created under §§ 9–28–102 and 25–10–102;
- (10) The Division of County Operations, created under § 25–10–102;
- (11) The Division of Developmental Disabilities Services, created under § 25–10–102;
- (12) The Division of Medical Services, created under § 25–10–102;
- (13) The Division of Provider Services and Quality Assurance, created under § 25–10–102;
- (14) The Division of Youth Services, created under §§ 9–28–202 and 25–10–102; and
- (15) The Youth Justice Reform Board, created under § 9–28–1201.

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

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

<< AR ST § 25–43–903 >>

25–43–903. Secretary of the Department of Human Services.

- (a) The executive head of the Department of Human Services shall be the Secretary of the Department of Human Services.
- (b) The secretary shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.
- (c) Each division of the department shall be under the direction, control, and supervision of the secretary.
- (d) The secretary may delegate his or her functions, powers, and duties to various divisions or employees of the department as he or she shall deem desirable and necessary for the effective and efficient operation of the department.
- (e) The secretary may, unless otherwise provided by law:
 - (1) Hire department personnel;
 - (2) Perform or assign duties assigned to the department; and
 - (3) Serve as the director, or the administrative or executive head of any state entity under the administrative control of the department if the secretary also meets all statutory requirements for the position.

<< AR ST § 25–43–904 >>

25-43-904. Civilian Student Training Program.

(a) There is created within the Department of Human Services the Civilian Student Training Program.

(b) Juvenile participants in the Civilian Student Training Program at Camp Joseph T. Robinson receiving services from the department are authorized to receive a monetary stipend, not to exceed ten dollars (\$10.00) per week to defray personal hygiene and other personal necessities.

(b) ¹⁸ Juvenile participants are authorized to receive uniforms and clothing items as determined by the staff to be appropriate for effective participation in outdoor activities.

(c) Transportation to support Civilian Student Training Program activities for juvenile participants and staff may be provided by commercial lease or purchase of motor vehicles not to exceed six (6) vehicles.

SECTION 5122. Arkansas Code § 5-2-315(a), concerning the discharge or conditional release from psychiatric or psychological care, is amended to read as follows:

<< AR ST § 5-2-315 >>

(a)(1)(A) When the ~~Director~~ **Secretary** of the Department of Human Services or his or her designee determines that a person acquitted has recovered from his or her mental disease or defect to such an extent that his or her release or his or her conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to the property of another person, the ~~director~~ **secretary** shall promptly file an application for discharge or conditional release of the person acquitted with the circuit court that ordered the commitment.

(B) In addition, if the person acquitted has an impairment due to alcohol or substance abuse, the ~~director~~ **secretary** may petition the circuit court for involuntary commitment under § 20-64-815.

(2) The ~~director~~ **secretary** shall send a copy of the application to the counsel for the person acquitted and to the attorney for the state.

SECTION 5123. Arkansas Code § 5-2-315(f)(1), concerning the discharge or conditional release from psychiatric or psychological care, is amended to read as follows:

<< AR ST § 5-2-315 >>

(f)(1) Regardless of whether the ~~director~~ **secretary** or his or her designee has filed an application pursuant to a provision of subsection (a) of this section, and at any time during the commitment of the person acquitted, a person acquitted, his or her counsel, or his or her legal guardian may file with the circuit court that ordered the commitment a motion for a hearing to determine whether the person acquitted should be discharged from the facility in which the person acquitted is committed.

SECTION 5124. Arkansas Code § 5-2-316(a)(1), concerning the conditional release and the subsequent discharge, modification, or revocation of the conditional release, is amended to read as follows:

<< AR ST § 5-2-316 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Human Services or his or her designee or a person conditionally released under § 5–2–315, or both, may apply to the court ordering the conditional release for discharge from or modification of the order granting conditional release on the ground that the person conditionally released under § 5–2–315 may be discharged or the order modified without danger to the person conditionally released under § 5–2–315 or to the person or property of another person.

SECTION 5125. Arkansas Code § 5–2–316(b)(2)(A), concerning the conditional release and the subsequent discharge, modification, or revocation of the conditional release, is amended to read as follows:

<< AR ST § 5–2–316 >>

(2)(A) If an order is entered revoking the most recent order of conditional release under subdivision (b)(1) of this section, all conditions of the release shall be abated, and the person shall be ordered to be committed to the custody of the ~~director~~ **secretary** or the ~~director's~~ **secretary's** designee.

SECTION 5126. Arkansas Code § 5–2–317(a), concerning the jurisdiction of a circuit court over a person acquitted by reason of mental disease or defect and the venue for a hearing, is amended to read as follows:

<< AR ST § 5–2–317 >>

(a) A circuit court has exclusive jurisdiction over a person acquitted by reason of mental disease or defect and committed to the custody of the ~~Director~~ **Secretary** of the Department of Human Services pursuant to § 5–2–314(b).

SECTION 5127. Arkansas Code § 5–55–104(a)–(e), concerning authorization for Medicaid by the Director of the Department of Human Services, are amended to read as follows:

<< AR ST § 5–55–104 >>

(a) No potential Medicaid recipient is eligible for medical assistance unless he or she has authorized in writing the ~~Director~~ **Secretary** of the Department of Human Services to examine all records of the potential Medicaid recipient's own, or of those receiving or having received Medicaid benefits through him or her, whether or not the receipt of the benefits would be allowed by the Arkansas Medicaid Program, for the purpose of investigating whether any person may have committed the crime of Medicaid fraud or for use or potential use in any legal, administrative, or judicial proceeding.

(b) No person is eligible to receive any payment from the Arkansas Medicaid Program or its fiscal agents unless the person has authorized in writing the ~~director~~ **secretary** to examine all records for the purpose of investigating whether any person may have committed the crime of Medicaid fraud or for use or for potential use in any legal, administrative, or judicial proceeding.

(c) The Attorney General and the prosecuting attorneys are allowed access to all records of persons and Medicaid recipients under the Arkansas Medicaid Program to which the ~~director~~ **secretary** has access for the purpose of investigating whether any person may have committed the crime of Medicaid fraud or for use or potential use in any legal, administrative, or judicial proceeding.

(d) Notwithstanding any other law to the contrary, no person is subject to any civil or criminal liability for providing access to records to the ~~director~~ **secretary**, the Attorney General, or the prosecuting attorneys.

(e) Records obtained by the ~~director~~ **secretary**, the Attorney General, or the prosecuting attorneys pursuant to this subchapter are classified as confidential information and are not subject to outside review or release by any individual

except when records are used or potentially to be used by any government entity in any legal, administrative, or judicial proceeding.

SECTION 5128. Arkansas Code § 5-55-110 is amended to read as follows:

<< AR ST § 5-55-110 >>

5-55-110. Suspension of violators.

The ~~Director~~ **Secretary** of the Department of Human Services may suspend or revoke the provider agreement between the Department of Human Services and a person in the event the person is found guilty of violating a provision of this subchapter.

SECTION 5129. Arkansas Code § 5-55-111(7)(B)(iii)(b), concerning criminal acts constituting Medicaid fraud, is amended to read as follows:

<< AR ST § 5-55-111 >>

(b) In the case of an entity that is a provider of services as defined in § 20-9-101, the person discloses in such form and manner as the ~~Director~~ **Secretary** of the Department of Human Services requires to the entity and, upon request, to the ~~director~~ **secretary**, the amount received from each vendor with respect to purchases made by or on behalf of the entity; or

SECTION 5130. Arkansas Code § 5-55-111(7)(B)(iv), concerning criminal acts constituting Medicaid fraud, is amended to read as follows:

<< AR ST § 5-55-111 >>

(iv) Any payment practice specified by the ~~director~~ **secretary** promulgated pursuant to applicable federal or state law;

SECTION 5131. Arkansas Code § 9-27-310(c), concerning the commencement of proceedings, is amended to read as follows:

<< AR ST § 9-27-310 >>

(c) Concurrent with filing, a copy of any petition that requests that the Department of Human Services take custody or provide family services shall be mailed to the ~~Director~~ **Secretary** of the Department of Human Services and to the attorney of the local Office of Chief Counsel of the Department of Human Services by the petitioner.

SECTION 5132. Arkansas Code § 9-27-333(a), concerning the disposition of family service funds and limitations, is amended to read as follows:

<< AR ST § 9-27-333 >>

(a) At least five (5) working days before ordering the Department of Human Services, excluding community-based providers, to provide or pay for family services, the circuit court shall fax a written notice of intent to the ~~Director~~ **Secretary** of the Department of Human Services and to the attorney of the local Office of Chief Counsel of the Department of Human Services.

SECTION 5133. Arkansas Code § 9-27-335(a)(1), concerning the limitations on the disposition of family service funds, is amended to read as follows:

<< AR ST § 9-27-335 >>

(a)(1) At least five (5) working days before ordering the Department of Human Services, excluding community-based providers, to provide or pay for family services in any case in which the department is not a party, the circuit court shall fax a written notice of intent to the ~~Director~~ **Secretary** of the Department of Human Services and to the attorney of the local office of chief counsel of the department.

SECTION 5134. Arkansas Code § 9-28-119(b)(2), concerning the definitions in regard to the Department of Human Services' power to obtain information, is amended to read as follows:

<< AR ST § 9-28-119 >>

(2) The ~~Director~~ **Secretary** of the Department of Human Services may enter into cooperative agreements with other state agencies, businesses, or financial entities to provide direct online access to data information terminals, computers, or other electronic information systems.

SECTION 5135. Arkansas Code § 9-28-202(b), concerning creation of the Division of Youth Services and the Director of the Division of Youth Services of the Department of Human Services, is amended to read as follows:

<< AR ST § 9-28-202 >>

(b)(1) The Governor may appoint the Director of the Division of Youth Services of the Department of Human Services or may delegate that function to the ~~Director~~ **Secretary** of the Department of Human Services.

(2) The director shall report to the secretary.

SECTION 5136. Arkansas Code § 9-28-301(a), concerning the inspections, timing, report, and audit of facilities operated by the Division of Youth Services by the Director of the Department of Human Services, is amended to read as follows:

<< AR ST § 9-28-301 >>

(a) In order to assure that juveniles committed to facilities operated by or under contract with the Division of Youth Services of the Department of Human Services are not subject to unsafe and unsanitary living conditions, the ~~Director~~ **Secretary** of the Department of Human Services or a duly authorized agent is authorized to enter the controlled premises and conduct random and unannounced health inspections of the facilities.

SECTION 5137. Arkansas Code § 9–28–301(e) and (f), concerning the inspections, timing, report, and audit of facilities operated by the Division of Youth Services by Director of the Department of Human Services, are amended to read as follows:

<< AR ST § 9–28–301 >>

(e)(1) The ~~Director~~ **Secretary** of the Department of Health shall present a list of findings of the random health inspections to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth within one (1) month after completing the random health inspections.

(2)(A) In the event the General Assembly is in session, the ~~Director~~ **Secretary** of the Department of Health shall provide the report to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Committee on Children and Youth.

(B) The complete report, including, but not limited to, statistics shall be made available to the public.

(f)(1) The ~~Director~~ **Secretary** of the Department of Human Services or the division shall file the report, along with a response not to exceed two (2) pages, to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth within thirty (30) days after receiving an inspection report prepared by the Department of Health.

(2) In the event the General Assembly is in session, the ~~Director~~ **Secretary** of the Department of Human Services shall provide the response to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Committee on Children and Youth.

(3) The response shall include a plan of correction and suggest a means by which the Department of Human Services or the division will correct any deficiencies within thirty (30) days of the filing of the report or within the time frame determined by the Department of Health to ensure the health and safety of the juveniles housed at the facility.

SECTION 5138. Arkansas Code § 9–28–301(g)(4), concerning the inspections, timing, report, and audit of juvenile detention facilities operated by the Division of Youth Services by the Director of the Department of Human Services, is amended to read as follows:

<< AR ST § 9–28–301 >>

(4) In the event the General Assembly is in session, the ~~Director~~ **Secretary** of the Department of Human Services shall provide the report to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Committee on Children and Youth.

SECTION 5139. Arkansas Code § 9–28–301(h), concerning the inspections, timing, report, and audit of juvenile detention facilities operated by the Division of Youth Services by the Director of the Department of Human Services, is amended to read as follows:

<< AR ST § 9–28–301 >>

(h) The ~~Director~~ **Secretary** of the Department of Human Services shall be required to close any facility when deficiencies are deemed by the Department of Health to be a danger to the health or safety of juveniles housed at such a facility.

SECTION 5140. Arkansas Code § 9–28–302(f)(1) and (2), concerning security inspections of juvenile detention facilities operated by the Division of Youth Services, are amended to read as follows:

<< AR ST § 9–28–302 >>

(f)(1) The ~~Director~~ **Secretary** of the Department of Human Services or the division shall file the report, along with a response not to exceed two (2) pages, to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth within thirty (30) days of receiving an inspection report prepared by the Department of Correction.

(2) In the event the General Assembly is in session, the ~~Director~~ **Secretary** of the Department of Human Services shall provide the response to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Committee on Children and Youth.

SECTION 5141. Arkansas Code § 9–28–302(g)(3)(B), concerning security inspections of juvenile detention facilities operated by the Division of Youth Services, is amended to read as follows:

<< AR ST § 9–28–302 >>

(B) In the event the General Assembly is in session, the ~~Director~~ **Secretary** of the Department of Human Services shall provide the report to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Committee on Children and Youth.

SECTION 5142. Arkansas Code § 9–28–302(h), concerning security inspections of juvenile detention facilities operated by the Division of Youth Services, is amended to read as follows:

<< AR ST § 9–28–302 >>

(h) The ~~Director~~ **Secretary** of the Department of Human Services shall be required to close any facility when deficiencies are deemed by the Department of ~~Correction~~ **Corrections** to be a danger to the health or safety of juveniles housed at such facility.

SECTION 5143. Arkansas Code § 9–28–404(a)(1), concerning the composition of the Child Welfare Agency Review Board, is amended to read as follows:

<< AR ST § 9–28–404 >>

(1) The director of the division within the Department of Human Services designated by the ~~Director~~ **Secretary** of the Department of Human Services to administer this subchapter or his or her designee;

SECTION 5144. Arkansas Code § 9–28–1201(b)(2)(C), concerning the creation and membership of the Youth Justice Reform Board, is amended to read as follows:

<< AR ST § 9–28–1201 >>

(C) Representatives from the ~~Department of Education~~ **Division of Elementary and Secondary Education**, ~~Department~~ **Division** of Workforce Services, the Division of Children and Family Services of the Department of

Human Services, and the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services;

SECTION 5145. Arkansas Code § 9–29–204 is amended to read as follows:

<< AR ST § 9–29–204 >>

9–29–204. Director Secretary of the Department of Human Services to determine when to discharge child.

As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase “appropriate authority in the receiving state” with reference to this state means the ~~Director~~ **Secretary** of the Department of Human Services.

SECTION 5146. Arkansas Code § 9–29–205 is amended to read as follows:

<< AR ST § 9–29–205 >>

9–29–205. Agreements with other states pursuant to the compact.

The officers and agencies of this state and its subdivisions having authority to place children are empowered to enter into agreements with appropriate officers or agencies of or in other party states ~~pursuant to~~ **under** paragraph (b) of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision, or agency thereof shall not be binding unless it has the approval in writing of the ~~Director~~ **Secretary** of the Department of Human Services in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

SECTION 5147. Arkansas Code § 9–31–201(3), concerning the definition of “director” under the assessment, diagnosis, evaluation, placement, and treatment services program, is repealed.

<< AR ST § 9–31–201 >>

~~(3) “Director” means the Director of the Department of Human Services.~~

SECTION 5148. Arkansas Code § 9–31–202(1)(B), concerning the objectives and duties of the ADEPT program, is amended to read as follows:

<< AR ST § 9–31–202 >>

(B) The target population to be served by this type of program shall be defined by the ~~Director~~ **Secretary** of the Department of Human Services;

SECTION 5149. Arkansas Code § 9–31–202(12)–(14), concerning the objectives and duties of the ADEPT program, are amended to read as follows:

<< AR ST § 9–31–202 >>

(12) Submit monthly reports to the ~~director~~ **secretary** that include intake, closure, and follow-up data;

(13) Provide quarterly reports to the ~~director~~ **secretary** and to the Bureau of Legislative Research; and

(14) Submit an annual report to the ~~director~~ **secretary** and to the bureau summarizing the monthly reports and additional information, including, but not limited to, the types of problems identified, treatment services provided, and any identifiable service future needs.

SECTION 5150. Arkansas Code § 9–32–206(a) and (b), concerning the provision of information and assistance from the divisions within the Department of Human Services, are amended to read as follows:

<< AR ST § 9–32–206 >>

(a) The Division of Youth Services of the Department of Human Services, the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, and the Division of Children and Family Services of the Department of Human Services shall make available to the Senate Interim Committee on Children and Youth a list of all reports the unit submits to the ~~Director~~ **Secretary** of the Department of Human Services.

(b) Under the direction of the ~~director~~ **secretary**, the Division of Youth Services, the Division of Aging, Adult, and Behavioral Health Services, and the Division of Children and Family Services shall work cooperatively with and provide any necessary assistance to the Senate Interim Committee on Children and Youth.

SECTION 5151. Arkansas Code § 10–3–2802(b)(4), concerning the creation of the Interagency Task Force for the Implementation of Criminal Justice Prevention Initiatives, is amended to read as follows:

<< AR ST § 10–3–2802 >>

(4) One (1) member appointed by the ~~Director~~ **Secretary** of the Department of Human Services who represents the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services;

SECTION 5152. Arkansas Code § 10–3–2802(b)(7) and (8), concerning the creation of the Interagency Task Force for the Implementation of Criminal Justice Prevention Initiatives, are amended to read as follows:

<< AR ST § 10–3–2802 >>

(7) The Director of the ~~Department~~ **Division** of Correction or his or her designee;

(8) The Director of the ~~Department~~ **Division** of Community Correction or his or her designee; and

SECTION 5153. Arkansas Code § 10–3–2802(d)(2), concerning the creation of the Interagency Task Force for the Implementation of Criminal Justice Prevention Initiatives, is amended to read as follows:

<< AR ST § 10–3–2802 >>

(2) To review performance and outcome measure reports submitted semiannually by the ~~Department~~ **Division** of Correction, ~~Department~~ **Division** of Community Correction, Parole Board, Board of Corrections, Arkansas Sentencing Commission, and Specialty Court Program Advisory Committee under this act and evaluate the impact;

SECTION 5154. Arkansas Code § 10-3-2901(b)(7), concerning the creation of the Specialty Court Program Advisory Committee, is amended to read as follows:

<< AR ST § 10-3-2901 >>

(7) The ~~Director~~ **Secretary** of the Department of Human Services or the ~~director's~~ **secretary's** designee;

SECTION 5155. Arkansas Code § 12-12-1719 is amended to read as follows:

<< AR ST § 12-12-1719 >>

12-12-1719. Delegation of authority.

The ~~Director~~ **Secretary** of the Department of Human Services may assign responsibilities for administering the various duties imposed upon the Department of Human Services under this subchapter to respective divisions of the department that in the ~~director's~~ **secretary's** opinion are best able to render service or administer the provisions of this subchapter.

SECTION 5156. Arkansas Code § 12-12-1723 is amended to read as follows:

<< AR ST § 12-12-1723 >>

12-12-1723. Rules.

The ~~Director~~ **Secretary** of the Department of Human Services may adopt rules to implement this subchapter.

SECTION 5157. Arkansas Code § 12-18-106(b), concerning cooperative agreements initiated by the Department of Human Services and the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 12-18-106 >>

(b) The ~~Director~~ **Secretary** of the Department of Human Services may enter into cooperative agreements with other states to create a national child maltreatment registration system.

SECTION 5158. Arkansas Code § 12-18-908(f), concerning the removal of a name from the Child Maltreatment Central Registry, is amended to read as follows:

<< AR ST § 12-18-908 >>

(f) The ~~Director~~ **Secretary** of the Department of Human Services shall adopt rules necessary to carry out this chapter pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., except that the ~~director~~ **secretary** shall not begin the process under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., until the proposed rules have been reviewed by the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth.

SECTION 5159. Arkansas Code § 16-87-216(c)(13)(B)(i), concerning the Juvenile Ombudsman Division of the Arkansas Public Defender Commission, is amended to read as follows:

<< AR ST § 16-87-216 >>

(i) The ~~Director~~ **Secretary** of the Department of Human Services and the Director of the Division of Youth Services **of the Department of Human Services**;

SECTION 5160. Arkansas Code § 19-5-306(6)(A), concerning the Department of Human Services Administration Fund Account, is amended to read as follows:

<< AR ST § 19-5-306 >>

(A) The Department of Human Services Administration Fund Account shall be used for the maintenance, operation, and improvement required by the office of the ~~Director~~ **Secretary** of the Department of Human Services in carrying out the administrative duties and shared business services of the Department of Human Services as set out in and under the restrictions and provisions of § 20-46-301 and § 25-10-101 et seq.

SECTION 5161. Arkansas Code § 19-5-306(9)(B)(iv), concerning the Department of Human Services Fund, is amended to read as follows:

<< AR ST § 19-5-306 >>

(iv) Funds received from the ~~Department of Education~~ **Division of Elementary and Secondary Education** for surplus commodities; and

SECTION 5162. Arkansas Code § 19-5-953(b) and (c), concerning the Long-Term Care Trust Fund, are amended to read as follows:

<< AR ST § 19-5-953 >>

(b) The Long-Term Care Trust Fund shall consist of all moneys and interest received from the imposition of civil penalties levied by the state on long-term care facilities found to be out of compliance with the requirements of federal or state law or regulations, there to be administered by the ~~Director~~ **Secretary** of the Department of Human Services solely for the protection of the health or property of residents of long-term care facilities, including, but not limited to, the payment for the costs of relocation of residents to other facilities, maintenance and operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

(c) Funds from the Long-term Care Trust Fund may also be administered by the ~~Director~~ **Secretary** of the Department of Human Services for programs or uses that, in the determination of the Director of the Office of Long-Term Care, enhance the quality of life for long-term care facility residents through the adoption of principles and building designs established by the Eden Alternative, **Inc.**, or Green House Project programs or other means.

SECTION 5163. Arkansas Code § 19-5-1020(d), concerning the Department of Human Services Renovation Fund, is amended to read as follows:

<< AR ST § 19-5-1020 >>

(d)(1) At the request of the ~~Director~~ **Secretary** of the Department of Human Services and upon certification of the availability of such funds, the Chief Fiscal Officer of the State shall initiate the necessary transfer documents to reflect the transfer on the books of record of the Treasurer of State, the Auditor of State, the Chief Fiscal Officer of the State, and the department.

(2) The ~~director~~ **secretary** shall submit any transfer plan to and must receive approval of the plan from the Chief Fiscal Officer of the State, the Governor, and the Legislative Council prior to the effective date of the transfer.

SECTION 5164. Arkansas Code § 19-5-1047(d)(2), concerning definitions under the Arkansas Medicaid Rebate Program Revolving Fund Act of 1991, is amended to read as follows:

<< AR ST § 19-5-1047 >>

(2) Any moneys accruing to the department through these rebates shall be deposited into the State Treasury as nonrevenue receipts to be credited to the fund and transferred by the ~~Director~~ **Secretary** of the Department of Human Services to the Department of Human Services Medicaid Paying Accounts Account to be used solely for paying pharmacy claims in the Arkansas Medicaid Drug Rebate Program.

SECTION 5165. Arkansas Code § 19-5-1077(b), concerning the Client Specific Emergency Services Revolving Fund Paying Account of the Office of Finance and Administration, is amended to read as follows:

<< AR ST § 19-5-1077 >>

(b) The account shall be established and maintained in accordance with procedures established by the Chief Fiscal Officer of the State for cash funds and shall be administered under the direction of the ~~Director~~ **Secretary** of the Department of Human Services.

SECTION 5166. Arkansas Code § 19-7-606 is amended to read as follows:

<< AR ST § 19-7-606 >>

19-7-606. Transfer of reimbursements.

The ~~Director~~ **Secretary** of the Department of Human Services is authorized to transfer from the Department of Human Services federal funds as designated by the Chief Fiscal Officer of the State to the appropriate state fund account those federal funds recovered as reimbursement for indirect costs which are not required to be transferred to the Constitutional Officers Fund or State Central Services Fund pursuant to this subchapter.

SECTION 5167. Arkansas Code § 19-7-701(a) and (b), concerning contract services and advance payment, are amended to read as follows:

<< AR ST § 19-7-701 >>

(a) In order to provide effective purchased services to the needy citizens of Arkansas, the ~~Director~~ **Secretary** of the Department of Human Services is authorized to pay one-twelfth (1/12) of the total amount of a Title XX contract to the service provider on the effective date of the contract. The amount of the advance payment shall be adjusted out of the reimbursement actually earned by the provider during the contract period.

(b) This section will be used only after the ~~director~~ **secretary** has conducted a study of the financial condition of the contracting agency to determine if an advance payment is necessary. If the advance is necessary, the ~~director~~ **secretary** shall forward his or her request and the reasons therefor to the Chief Fiscal Officer of the State for approval.

SECTION 5168. Arkansas Code § 19-7-703(a), concerning loan provisions for the Department of Human Services, is amended to read as follows:

<< AR ST § 19-7-703 >>

(a) It is found and determined that the continued operations of the Title XX Services Program of the Department of Human Services, in accordance with the approved annual operations plan, are, from time to time, seriously impaired by either administrative oversights and delays by the United States Office of Grants Management or by the processes of federal fiscal year conversion. It is further found and determined that such delays in the proper preparation and transmittal of federal grant award authorizations and letter of credit instruments have created unnecessary hardships on the providers of services and the needy citizens of this state. Therefore, upon certification of the pending availability of federal funding by the ~~Director~~ **Secretary** of the Department of Human Services, the Chief Fiscal Officer of the State may grant temporary advances, the maximum amount not to exceed five million dollars (\$5,000,000), from the Budget Stabilization Trust Fund to the appropriate account of the Department of Human Services so affected by such delays.

SECTION 5169. Arkansas Code § 19-7-705 is amended to read as follows:

<< AR ST § 19-7-705 >>

19-7-705. Use of funds.

The ~~Director~~ **Secretary** of the Department of Human Services is authorized to use funds earned through service fees, audit settlements, or federal program settlements for operation of the Title XX service program. Any unanticipated federal funding received under this provision will be handled in accordance with the terms of the Miscellaneous Federal Grant Act, § 19-7-501 et seq.

SECTION 5170. Arkansas Code § 19-7-706(a)(1), concerning the transfer of funds and appropriations, is amended to read as follows:

<< AR ST § 19-7-706 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Human Services, in accordance with rules established by the Chief Fiscal Officer of the State, shall have the authority to transfer funds and appropriations from the appropriate division of the Department of Human Services to the various agencies of the department which receive allotments of Title XX funds. These transfers shall be limited to the allotment of funds available to each agency within the department.

SECTION 5171. Arkansas Code § 19-7-706(b), concerning the transfer of funds and appropriations, is amended to read as follows:

<< AR ST § 19-7-706 >>

(b) The Chief Fiscal Officer of the State and the ~~director~~ **secretary** shall cooperate to establish such fund accounts for deposit and disbursement of federal and local Title XX funds as are necessary for the orderly operation of a Title XX services program. The Chief Fiscal Officer of the State and the ~~director~~ **secretary** shall establish procedures for the transfers of funds necessary to make reimbursement to providers or to agency fund accounts in payment for eligible services. These procedures will include provision for use of state matching funds where appropriated by law.

SECTION 5172. Arkansas Code § 20–3–104(b), concerning the creation of the Achieving a Better Life Experience Program Trust, is amended to read as follows:

<< AR ST § 20–3–104 >>

(b) The cotrustees of the trust shall be the ~~Director~~ **Secretary** of the Department of Human Services, the Director of Arkansas Rehabilitation Services, and the Treasurer of State.

SECTION 5173. Arkansas Code § 20–3–105(a)(1) and (2), concerning the administration, authority, and powers of the Achieving a Better Life Experience Program Committee, are amended to read as follows:

<< AR ST § 20–3–105 >>

(1) The ~~Director~~ **Secretary** of the Department of Human Services, or his or her designee;

(2) The Director of Arkansas Rehabilitation Services of the ~~Department of Career Education~~ **Division of Workforce Services**, or his or her designee; and

SECTION 5174. Arkansas Code § 20–9–221(b)(1) and (2), concerning confidential information received by the Department of Health, are amended to read as follows:

<< AR ST § 20–9–221 >>

(b)(1) However, in the case of a specific written request by the deputy director of the appropriate division as determined by the ~~Director~~ **Secretary** of the Department of Human Services for information concerning a certain nursing home, information obtained during recent inspections of the home may be supplied in writing to the deputy director.

(2) This exception applies only to homes providing care for recipients of public welfare and is not to be construed as permitting the exchange of such information on all homes in the state but is specifically limited to those for which the deputy director of the appropriate division as determined by the ~~director~~ **secretary** has specific complaints.

SECTION 5175. Arkansas Code § 20–10–101(6), concerning the definition of “director” under the laws governing long term care facilities and services, is repealed.

<< AR ST § 20–10–101 >>

(6) “Director” means the ~~Director of the Department of Human Services~~;

SECTION 5176. Arkansas Code § 20–10–101(7), concerning the definition of “division” under the laws governing long term care facilities and services, is amended to read as follows:

<< AR ST § 20–10–101 >>

(7) “Division” means the appropriate division as determined by the ~~Director~~ **Secretary** of the Department of Human Services;

SECTION 5177. Arkansas Code § 20–10–202 is amended to read as follows:

<< AR ST § 20–10–202 >>

20–10–202. Creation.

There is created an Office of Long–Term Care within the appropriate division as determined by the ~~Director~~ **Secretary** of the Department of Human Services. The head of the office shall be appointed by the ~~director~~ **Secretary of the Department of Human Services**.

SECTION 5178. Arkansas Code § 20–10–204(b)(2)(D), concerning notice of violation for a long-term care facility, is amended to read as follows:

<< AR ST § 20–10–204 >>

(D) Amount of civil penalty or other administrative remedy, if any, imposed by the ~~Director~~ **Secretary** of the Department of Human Services; and

SECTION 5179. Arkansas Code § 20–10–207(a), concerning the notification to media of violations by a long-term care facility, is amended to read as follows:

<< AR ST § 20–10–207 >>

(a) When the Office of Long–Term Care's appropriate division, as determined by the ~~Director~~ **Secretary** of the Department of Human Services, finds, upon inspection and investigation, that any nursing home or residential care facility has committed two (2) violations constituting Class A or Class B violations as defined ~~set out~~ **set out** in § 20–10–205 during any twelve-month period, the office shall notify the various news media within the county wherein the nursing home or residential care facility is located and shall advise the media that a complete record of the inspection and investigation will be available for public inspection at the office.

SECTION 5180. Arkansas Code § 20–10–208(a) and (b), concerning hearings of the Department of Human Services, are amended to read as follows:

<< AR ST § 20–10–208 >>

(a)(1) A licensee may contest an assessment of a civil penalty or any administrative remedy imposed by the Office of Long–Term Care by sending a written request for a hearing to the ~~Director~~ **Secretary** of the Department of Human Services.

(2) Requests for hearings shall be received by the ~~Director~~ **Secretary** of the Department of Human Services within sixty (60) days after receipt by the licensee of the notice of violation and the assessment of any civil penalty or any administrative remedy imposed by the office.

(b)(1) The ~~Director~~ **Secretary** of the Department of Human Services shall assign the appeal to a fair and impartial hearing officer who shall not be a full-time employee of the Department of Human Services.

(2) The hearing officer shall preside over the hearing and make findings of fact and conclusions of law in the form of a recommendation to the ~~Director~~ **Secretary** of the Department of Human Services.

(3) The ~~Director~~ **Secretary** of the Department of Human Services shall review any recommendation and make the final decision. He or she:

(A) May approve the recommendation; or

(B) May for good cause:

(i) Modify the recommendation in whole or in part; or

(ii)(a) Remand the recommendation for further proceedings as directed by him or her.

(b) If the recommendation is remanded, the hearing officer shall conduct further proceedings as directed by the ~~Director~~ **Secretary** of the Department of Human Services and shall submit an amended recommendation to the ~~Director~~ **Secretary** of the Department of Human Services.

(4) If the ~~Director~~ **Secretary** of the Department of Human Services modifies a recommendation, in whole or in part, or if the ~~Director~~ **Secretary** of the Department of Human Services remands the decision, he or she shall state in writing at the time of the remand or modification all grounds for the remand or modification, including statutory, regulatory, factual, or other grounds.

(5) The modification or approval of a recommendation by the ~~Director~~ **Secretary** of the Department of Human Services shall be the final agency action as provided by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 5181. Arkansas Code § 20-10-208(c)(3), concerning hearings of the Department of Human Services, is amended to read as follows:

<< AR ST § 20-10-208 >>

(3) Unless the ~~Director~~ **Secretary** of the Department of Human Services acts on the recommendation of the hearing officer within sixty (60) days of receipt of the recommendation, the recommendation of the hearing officer shall be final.

SECTION 5182. Arkansas Code § 20-10-208(d), concerning hearings of the Department of Human Services, is amended to read as follows:

<< AR ST § 20-10-208 >>

(d) Except to the extent that it is inconsistent with federal law or regulation, a written request for a hearing shall stay until denied by the ~~Director~~ **Secretary** of the Department of Human Services any enforcement action imposed by the office pending the hearing and the final decision of the ~~Director~~ **Secretary** of the Department of Human Services.

SECTION 5183. Arkansas Code § 20-10-209 is amended to read as follows:

<< AR ST § 20-10-209 >>

20-10-209. Disposition of funds.

(a)(1) There is established on the books of the Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the “Long-Term Care Trust Fund”.

(2) The fund shall consist of all moneys and interest received from the imposition of civil penalties levied by the state on long-term care facilities found to be out of compliance with the requirements of federal or state law or regulations,

there to be administered by the ~~Director~~ **Secretary** of the Department of Human Services solely for the protection of the health or property of residents of long-term care facilities, including, but not limited to, the payment for the costs of relocation of residents to other facilities, maintenance and operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

(b) Funds from the Long-Term Care Trust Fund may also be administered by the ~~Director~~ **Secretary** of the Department of Human Services for programs or uses that, in the determination of the Director of the Office of Long-Term Care, enhance the quality of life for long-term care facility residents through the adoption of principles and building designs established by the Eden Alternative, **Inc.** or Green House Project programs or other means.

SECTION 5184. Arkansas Code § 20-10-905(d), concerning a petition for receivership, is amended to read as follows:

<< AR ST § 20-10-905 >>

(d) The complaint and notice of hearing shall be served on the owner and administrator or licensee of the facility. In cases when the department is not the plaintiff in the action, a copy of the complaint and notice shall be forwarded by mail to the ~~Director~~ **Secretary** of the Department of Human Services by the plaintiff.

SECTION 5185. Arkansas Code § 20-10-916(b), concerning the Long-Term Care Facility Receivership Fund Account, is amended to read as follows:

<< AR ST § 20-10-916 >>

(b) The fund account established in this section shall be administered and disbursed under the direction of the ~~Director~~ **Secretary** of the Department of Human Services for the purpose of paying the expenses of receivers appointed under this subchapter.

SECTION 5186. Arkansas Code § 20-10-1004(c)(1), concerning prohibiting new admissions to long-term care facilities, hearings, and appeals, is amended to read as follows:

<< AR ST § 20-10-1004 >>

(c)(1) The facility may request an immediate hearing by written request to the ~~Director~~ **Secretary** of the Department of Human Services.

SECTION 5187. Arkansas Code § 20-10-1409(b)(1), concerning the staffing standards of the Office of Long-Term Care, is amended to read as follows:

<< AR ST § 20-10-1409 >>

(b)(1) If the ~~Director~~ **Secretary** of the Department of Human Services determines that the reimbursement methodology or available funding is insufficient or unable to pay for the minimum staffing standards under § 20-10-1403, the office, by regulation, may modify the requirements of § 20-10-1403 to ensure minimum staffing funds.

SECTION 5188. Arkansas Code § 20-10-1409(c)(1)(A), concerning the staffing standards of the Office of Long-Term Care, is amended to read as follows:

<< AR ST § 20-10-1409 >>

(c)(1)(A) If the Director of the Office of Long-Term Care determines that minimum staffing standards should be increased pursuant to subdivision (b)(2) of this section, the Director of the Office of Long-Term Care shall certify the determination and any proposed regulatory increases to minimum staffing standards to the Director of the Division of Medical Services of the Department of Human Services, who shall notify the ~~Director~~ **Secretary** of the Department of Human Services and the Legislative Council of the determination and whether sufficient appropriated funds exist to fund the costs to be incurred by the proposed changes to the minimum staffing standards.

SECTION 5189. Arkansas Code § 20-10-2106 is amended to read as follows:

<< AR ST § 20-10-2106 >>

20-10-2106. Rules.

The ~~Director~~ **Secretary** of the Department of Human Services shall adopt rules necessary to implement and administer this subchapter, including without limitation:

- (1) Procedures for a long-term care facility to notify the Office of Long-Term Care of admissions; and
- (2)(A) Procedures by which a person in a long-term care facility may decline options counseling for long-term care.
 - (B)(i) These procedures shall include a form promulgated by the Department of Human Services for use by a long-term care facility.
 - (ii) The form shall be limited to one (1) page and shall:
 - (a) Be orally read to the resident or, if applicable, the resident's representative by long-term care facility staff except as provided in this subdivision (2)(B)(ii);
 - (b) List the date;
 - (c) State the name of the resident or, if applicable, the resident's representative;
 - (d) Contain checkboxes indicating that:
 - (1) The office was notified of the admission;
 - (2) The form was not read orally to the resident or resident's representative because the resident lacks decisional capacity and does not have a representative; and
 - (3) The resident or the resident's representative declined the options counseling for long-term care;
 - (e) Contain a statement and an acknowledgment that options counseling for long-term care is an optional program and may be declined by execution of the form;
 - (f) Be signed by the resident or, if applicable, the resident's representative; and
 - (g) Be retained by the long-term care facility in the resident's admission file for eighteen (18) months or until the next standard survey, whichever is longer.

SECTION 5190. Arkansas Code § 20–22–404 is amended to read as follows:

<< AR ST § 20–22–404 >>

20–22–404. Rules and regulations adopted by Office of Long–Term Care.

The Office of Long–Term Care of the appropriate division as determined by the ~~Director~~ **Secretary** of the Department of Human Services may adopt appropriate rules and regulations to carry out the purpose and intent of this subchapter.

SECTION 5191. Arkansas Code § 20–46–105(d), concerning reports on emotionally disturbed youth by the Department of Human Services, is amended to read as follows:

<< AR ST § 20–46–105 >>

(d) The deputy director of the appropriate division of the department as determined by the ~~Director~~ **Secretary** of the Department of Human Services shall certify by his or her signature that the information contained in these reports is correct to the best of his or her knowledge.

SECTION 5192. Arkansas Code § 20–46–301(a)–(c), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, are amended to read as follows:

<< AR ST § 20–46–301 >>

(a) The Department of Human Services shall have the authority and power to create and maintain the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services and to provide services for community mental health clinics and centers, which shall be administered through such divisions, offices, sections, or units of the Department Human Services as may be determined by the ~~Director~~ **Secretary** of the Department of Human Services.

(b) The Department of Human Services shall have the authority to establish or assist in the establishment and direction of those mental health clinics and centers in local and regional areas of the state which shall be operated under such divisions, offices, sections, or units of the Department Human Services as may be determined by the ~~director~~ **secretary**.

(c) The Department of Human Services, in cooperation with the ~~Building Authority Division of the Department of Finance and Administration~~, may sell, donate, lease on a short-term or long-term basis, or assign the use of any property and equipment owned by the Department of Human Services, including real property, furniture, fixtures, and office equipment and supplies, to those community mental health clinics and centers to assist them in the advancement of mental health in the state.

SECTION 5193. Arkansas Code § 20–46–301(e)(2), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, are amended to read as follows:

<< AR ST § 20–46–301 >>

(2) The ~~director~~ **secretary** shall have the authority to negotiate an employee leasing arrangement with the private nonprofit community mental health center as an ongoing contract to perform mental health services for the center. The arrangement shall provide, at a minimum:

(A) For reimbursement for all leased Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services employee financial obligations with respect to wages, employment taxes, and employee

benefits of each employee providing services for the center and for reimbursement of administrative costs associated with the leased employees;

(B) That all leased employees are covered by workers' compensation insurance provided in conformance with laws of the state and which may be provided by either the Department of Human Services or the center;

(C) That all leased employees shall be limited to providing services to clients or in support of clients which are consistent with the goals and objectives of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services and the Department of Human Services;

(D) That the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services and the Department of Human Services shall not be vicariously liable for the liabilities of the center, whether contractual or otherwise;

(E) That the center shall provide liability insurance for the employees and indemnify the state for any actions of the employees; and

(F) That the leasing arrangement shall not be effective for a period of time to exceed each state fiscal biennium and that payment and performance obligations of the arrangement are subject to the availability and appropriation of funds for the employees' salaries and other benefits.

SECTION 5194. The introductory language of Arkansas Code § 20-46-303, concerning the standards for community mental health clinics, is amended to read as follows:

<< AR ST § 20-46-303 >>

In approving or rejecting community mental health clinics for the purpose of mental health services, the ~~Director~~ **Secretary** of the Department of Human Services shall consider the following factors:

SECTION 5195. The introductory language of Arkansas Code § 20-46-309, concerning the composition and qualifications of staff and boards at community mental health centers, is amended to read as follows:

<< AR ST § 20-46-309 >>

The ~~Director~~ **Secretary** of the Department of Human Services shall require the following as to the composition and professional qualifications of the clinic or center staff and control and direction of the clinic or center:

SECTION 5196. Arkansas Code § 20-46-310 is amended to read as follows:

<< AR ST § 20-46-310 >>

20-46-310. Duty to provide screenings and evaluation studies.

Mental health centers in this state, whether local or regional, which have been approved by the ~~Director~~ **Secretary** of the Department of Human Services shall provide, upon request of the courts of record in this state, screening and evaluation studies of such persons as shall be referred to the mental health center or clinic by the court.

SECTION 5197. Arkansas Code § 20-46-601(b), concerning the tracking and treatment of persons suffering from mental illness and substance abuse, is amended to read as follows:

<< AR ST § 20-46-601 >>

(b) For purposes of this section, “client” means a person diagnosed to be addicted to drugs or alcohol who has been committed to the custody of the ~~Director~~ **Secretary** of the Department of Human Services pursuant to § 5-2-314 as a result of acquittal, on the ground of mental disease or defect, of an offense involving bodily injury to another person or serious risk of such injury.

SECTION 5198. Arkansas Code § 20-46-702(a)(3), concerning the definition of “director” under the laws governing the Department of Human Services, is repealed.

<< AR ST § 20-46-702 >>

~~(3) “Director” means the Director of the Department of Human Services or his or her designee;~~

SECTION 5199. Arkansas Code § 20-46-703(d), concerning surveys of program providers for the Department of Human Services, is amended to read as follows:

<< AR ST § 20-46-703 >>

(d) The ~~Director~~ **Secretary** of the Department of Human Services shall ensure that the department complies with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and with § 20-77-107 in regard to all surveys of program providers.

SECTION 5200. Arkansas Code § 20-47-505(a)(2), concerning the Child and Adolescent Service System Program Coordinating Council, is amended to read as follows:

<< AR ST § 20-47-505 >>

(2) The council shall include the following persons to be selected and appointed by the Commissioner of **Elementary and Secondary** Education and the ~~Director~~ **Secretary** of the Department of Human Services:

(A) At least three (3) parents, parent surrogates, or family members of a child or children with emotional disturbance;

(B) A member of an ethnic minority;

(C) A child advocate;

(D) Child and Adolescent Service System Program coordinators from each of the certified community mental health centers;

(E)(i) One (1) or more representatives from specific divisions or agencies in the Department of Human Services and the Department of Education.

(ii) Each representative shall have official duties related to the delivery of behavioral health services for children and adolescents with emotional disturbances.

(iii) Specific designations of membership of the council shall be determined through interdepartmental and intradepartmental agreements that will be renewed on an annual basis; and

(F)(i) At least seven (7) representatives from private or public agencies or organizations that are stakeholders in behavioral health services for children and adolescents with emotional disturbances.

(ii) The commissioner and the ~~director~~ **secretary** shall jointly appoint an appropriate number of stakeholders.

SECTION 5201. Arkansas Code § 20-47-505(b)(1), concerning the Child and Adolescent Service System Program Coordinating Council, is amended to read as follows:

<< AR ST § 20-47-505 >>

(1) Advise and report to the commissioner and the ~~director~~ **secretary** on matters of policy and programs related to children with emotional disturbances and their families;

SECTION 5202. Arkansas Code § 20-47-505(b)(6) and (7), concerning the Child and Adolescent Service System Program Coordinating Council, are amended to read as follows:

<< AR ST § 20-47-505 >>

(6) Submit a statewide plan and budget recommendations to the commissioner and the ~~director~~ **secretary** on or before March 15 of each even-numbered year thereafter preceding the legislative session;

(7) Develop and recommend special projects to the commissioner and the ~~director~~ **secretary**;

SECTION 5203. Arkansas Code § 20-47-505(b)(10), concerning the Child and Adolescent Service System Program Coordinating Council, is amended to read as follows:

<< AR ST § 20-47-505 >>

(10) Make recommendations for corrective action plans to the commissioner and the ~~director~~ **secretary** in the event that a regional program planning team does not produce a timely regional plan that meets a plan of care or fails to implement the approved regional plan.

SECTION 5204. Arkansas Code § 20-47-507(d), concerning staff for the Child and Adolescent Service System Program Coordinating Council, is amended to read as follows:

<< AR ST § 20-47-507 >>

(d) The division's council staff shall provide an annual report summarizing program regional and coordinating council activities, strategic plans, and outcomes to the ~~Director~~ **Secretary** of the Department of Human Services and the Commissioner of **Elementary and Secondary** Education each year on or before October 15.

SECTION 5205. Arkansas Code § 20-48-202(5), concerning the definition of “director” under the Arkansas Intellectual Disabilities Act, is repealed.

<< AR ST § 20-48-202 >>

(5) “Director” means the Director of the Department of Human Services;

SECTION 5206. Arkansas Code § 20–48–202(6), concerning the definition of “division” under the Arkansas Intellectual Disabilities Act, is amended to read as follows:

<< AR ST § 20–48–202 >>

(6) “Division” means the Division of Developmental Disabilities Services of the Department of Human Services or the appropriate division as determined by the ~~Director~~ **Secretary** of the Department of Human Services;

SECTION 5207. Arkansas Code § 20–48–210 is amended to read as follows: Services.

<< AR ST § 20–48–210 >>

20–48–210. Deputy Director of the Division of Developmental Disabilities Services.

(a) There is created the office of the Deputy Director of the Division of Developmental Disabilities Services of the Department of Human Services. The deputy director shall be appointed by ~~and shall serve at the pleasure of~~ the Board of Developmental Disabilities Services **in consultation with the Secretary of the Department of Human Services.**

(b) The deputy director shall be a person of proven administrative ability and professional qualifications, preferably holding a Ph.D. or equivalent, but including at least a master's degree in psychology, education, social service, or other field of study approved by the board and shall have at least five (5) years' experience in intellectual disabilities services.

(c) The deputy director shall be the ~~executive secretary of the board~~ **Chair of the Board of Development Disabilities Services** and shall maintain an official set of minutes of all board action.

(d) The deputy director shall be the executive officer of the Division of Developmental Disabilities Services and shall operate and manage the division, subject to the control of the board **and in consultation with the Secretary of the Department of Human Services.**

(e) The board may delegate to the deputy director any powers of the board upon such terms and for such duration as the board shall specify.

SECTION 5208. Arkansas Code § 20–64–602(b)(4), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, is amended to read as follows:

<< AR ST § 20–64–602 >>

(4) Serve in a liaison capacity between the state and local communities and the United States Government with respect to alcohol abuse and drug abuse programs and, subject to the approval of the ~~Director~~ **Secretary** of the Department of Human Services, enter into agreements with and make commitments on behalf of the State of Arkansas to meet requirements for obtaining federal assistance or grants for partially financing alcohol abuse and drug abuse programs in the state;

SECTION 5209. Arkansas Code § 20–64–602(b)(7), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, is amended to read as follows:

<< AR ST § 20–64–602 >>

(7) Review, on a continuing basis, existing and proposed state statutes relating to alcohol abuse and drug abuse education, prevention, intervention, treatment rehabilitation, and training and make appropriate recommendations for legislation to the ~~director~~ **secretary** and the General Assembly;

SECTION 5210. Arkansas Code § 20–64–602(b)(9), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, is amended to read as follows:

<< AR ST § 20–64–602 >>

(9) Review those budget items proposed by other state agencies which are intended for alcohol or drug abuse prevention, intervention, treatment, education, rehabilitation, and training services and make recommendations to the ~~director~~ **secretary**;

SECTION 5211. Arkansas Code § 20–64–602(b)(15), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, is amended to read as follows:

<< AR ST § 20–64–602 >>

(15) Prepare an annual report to coincide with appropriate federal reports to be submitted to the advisory council, the ~~director~~ **secretary**, and the Governor describing activities of the division and the accomplishments and effectiveness of its programs and also prepare special reports as deemed necessary for the advisory council to aid in the fulfillment of its advisory responsibilities;

SECTION 5212. Arkansas Code § 20–64–602(b)(19), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, is amended to read as follows:

<< AR ST § 20–64–602 >>

(19) Develop and promulgate standards, rules, and regulations for accrediting, certifying, and licensing alcohol and drug abuse prevention, treatment, and rehabilitation programs and facilities within the state, under the supervision and direction of the ~~director~~ **secretary**, provided that the standards, rules, and regulations shall not supersede standards, rules, and regulations promulgated by other state agencies for programs or facilities whose primary mission is not alcohol and drug abuse prevention, treatment, and rehabilitation;

SECTION 5213. Arkansas Code § 20–64–603 is amended to read as follows:

<< AR ST § 20–64–603 >>

20–64–603. Director Secretary of the Department of Human Services — Administration of state plans.

The ~~Director~~ **Secretary** of the Department of Human Services shall be the single state authority and shall have primary responsibility for administering the state plan on alcohol abuse and alcoholism and the state plan on drug abuse prevention.

SECTION 5214. Arkansas Code § 20–64–1001(a), concerning the Arkansas Drug Director, is amended to read as follows:

<< AR ST § 20-64-1001 >>

(a)(1) There is created within the **Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services** office of the Governor a position of Arkansas Drug Director, who shall serve at the pleasure of the Governor .

(2) Effective at 12:01 a.m. on July 1, 2005, the position of Arkansas Drug Director is transferred to the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services **The Arkansas Drug Director shall be appointed by the Governor, and shall serve at the pleasure of the Governor.**

(3) The Arkansas Drug Director shall report to the Secretary of the Department of Human Services.

SECTION 5215. Arkansas Code § 20-64-1002(b)(1), concerning the Arkansas Alcohol and Drug Abuse Coordinating Council, is amended to read as follows:

<< AR ST § 20-64-1002 >>

(1) Thirteen (13) members of the coordinating council shall be administrative officers of the following agencies, or their appropriate designees, confirmed by gubernatorial appointment:

(A) The Arkansas Drug Director, who shall serve as Chair of the Arkansas Alcohol and Drug Abuse Coordinating Council;

(B) The Director of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services;

(C) The Director of the ~~Department~~ **Division** of Arkansas State Police;

(D) The Commissioner of **Elementary and Secondary** Education;

(E) The Director of the Arkansas Department of Transportation;

(F) The Director of the ~~Department~~ **Division** of Correction;

(G) The ~~Director~~ **Secretary** of the Department of Finance and Administration;

(H) The Adjutant General of the Arkansas National Guard;

(I) The Attorney General;

(J) The ~~Executive~~ Director of the State Crime Laboratory;

(K) The Director of the Office of Alcohol Testing of the Department of Health;

(L) The Director of the Administrative Office of the Courts; and

(M) The Director of the ~~Department~~ **Division** of Community Correction; and

SECTION 5216. Arkansas Code § 20-76-211 is amended to read as follows:

<< AR ST § 20-76-211 >>

20-76-211. ~~Director's office~~ **Secretary's Office of Department of Human Services — Client Specific Emergency Services Revolving Fund Paying Account.**

(a) The ~~Director's office~~ **Secretary's Office** the Department of Human Services shall establish and maintain as a cash fund account the Client Specific Emergency Services Revolving Fund Paying Account consisting of federal grants, aids, cash donations, reimbursements, and state general revenue, not to exceed a daily balance of ten thousand dollars (\$10,000), for delivery of immediate care, short-term, or emergency services to eligible clients.

(b) The account shall be established and maintained in accordance with procedures established by the Chief Fiscal Officer of the State for cash funds and shall be administered under the direction of the ~~Director~~ **Secretary** of the Department of Human Services.

SECTION 5217. Arkansas Code § 20-76-422 is repealed.

<< Repealed: AR ST § 20-76-422 >>

~~20-76-422. Aged, blind, and disabled — Conversion from state to federal program.~~

~~(a) The Director of the Department of Human Services is authorized to enter into agreements with the United States Secretary of Health and Human Services and other state agencies to effectuate an orderly and timely conversion from state to federal programs of cash assistance for the aged, blind, and disabled, as provided in Pub. L. No. 92-603, Title HH, in such a manner as would be expedient to both the United States Government and the State of Arkansas.~~

~~(b) The agreements may include the transfer of state funds to, and the receipt of federal funds from, the secretary for the purposes of supplementing the federal benefits to be paid to eligible persons, to facilitate disability, blindness, and Medicaid eligibility determinations on behalf of the state by the secretary, and to enable the state to perform required administrative or program functions on behalf of the secretary under which the secretary will advance federal funds for the payment of full-time and part-time employees and their related supportive expenses as deemed necessary by both the director and the secretary to carry out the conversion plan.~~

SECTION 5218. Arkansas Code § 20-77-102(d), concerning the program for long-term care facility care, is amended to read as follows:

<< AR ST § 20-77-102 >>

(d) The ~~Director~~ **Secretary** of the Department of Human Services, with the approval of the Governor and after obtaining the advice of the Legislative Council, may provide for an expanded comprehensive program of long-term care facility care for residents of this state if he or she deems the program advisable or appropriate in order to take advantage of expanded federal programs or participation therein, within the limitation of funds that may be available to the department therefor.

SECTION 5219. Arkansas Code § 20-77-107(b)-(d), concerning the rules and regulations for the program for indigent medical care, are amended to read as follows:

<< AR ST § 20-77-107 >>

(b) The ~~Director~~ **Secretary** of the Department of Human Services is further authorized to enter into separate agreements with the University of Arkansas for Medical Sciences and private institutions in order to provide maximum medical care for the indigent persons of this state.

(c) The ~~director~~ **secretary** may enter into agreements with private or public entities to assist in the enforcement of rules and regulations of an indigent medical program, including:

- (1) Utilization review; and
- (2) Professional review of providers participating in the program.

(d)(1) The ~~director~~ **secretary** shall ensure that any entity with whom the department contracts to assist in the enforcement of rules and regulations of an indigent medical program will fulfill its duties in accordance with state and federal law and regulations.

(2) The ~~director~~ **secretary** may terminate any contractor who excessively burdens the State of Arkansas with the defense of appeals of sanctions or citations of deficiencies that are resolved in favor of the program provider.

SECTION 5220. Arkansas Code § 20-77-107(f), concerning the rules and regulations for the program for indigent medical care, is amended to read as follows:

<< AR ST § 20-77-107 >>

(f) The ~~director~~ **secretary** shall ensure that the professional review of providers, except long-term care facilities and their reviewers, participating in the program comply with the following:

(1) The party conducting any professional reviews of providers participating in the program shall be knowledgeable in the specific areas of law and regulations being enforced;

(2)(A) Every citation or deficiency cited to a provider shall refer by source and number to the authority upon which the citation or deficiency is based.

(B) However, the requirement of subdivision (f)(2)(A) of this section does not limit the department and any entity with whom it contracts in the exercise and application of professional medical judgment in determining when and under what circumstances care is medically necessary;

(3) The professional review process shall include an informal dispute resolution process to allow the provider to challenge the citation or deficiency cited or sanction to a person other than the person making the citation as defined by the ~~director~~ **secretary**;

(4) The ~~director~~ **secretary** shall establish a system to ensure standard and consistent application of sanctions and citation or deficiencies among surveyors in different areas of the state; and

(5) The ~~director~~ **secretary** shall establish a process for program providers to appeal a decision of a reviewer pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 5221. Arkansas Code § 20-77-111(a), concerning data reports on the Arkansas Medicaid Program, is amended to read as follows:

<< AR ST § 20-77-111 >>

(a) The ~~Director~~ **Secretary** of the Department of Human Services shall cause to be prepared a compilation of data on the Arkansas Medicaid Program.

SECTION 5222. Arkansas Code § 20-77-304(b)(1), concerning the notice of an action or claim, is amended to read as follows:

<< AR ST § 20-77-304 >>

(b)(1) If the recipient, his or her guardian, personal representative, estate, or survivors bring an action against the third party who may be liable for injury, disease, or disability, then notice of institution of the legal proceedings and notice of settlement shall be given the ~~Director~~ **Secretary** of the Department of Human Services.

SECTION 5223. Arkansas Code § 20-77-402 is amended to read as follows:

<< AR ST § 20-77-402 >>

20-77-402. Continuation of program.

(a) The ~~Director~~ **Secretary** of the Department of Human Services and the deputy director of the appropriate division of the Department of Human Services are authorized to provide for continued coverage of prescription drugs under the Title XIX Medicaid Program for the State of Arkansas.

(b) The ~~director~~ **secretary** and deputy director are authorized to establish necessary program guidelines to control the provision of this service, provided that the guidelines are not in conflict with any federal or state law or regulation.

SECTION 5224. Arkansas Code § 20-77-403(a) and (b), concerning fees paid to participating pharmacists, are amended to read as follows:

<< AR ST § 20-77-403 >>

(a) The ~~Director~~ **Secretary** of the Department of Human Services and the deputy director shall pay each participating pharmacist for each prescription filled under this program the pharmacist's usual and customary charge to the general public for the drug.

(b) However, until existing federal regulations limiting reimbursement for a drug to the lower of the pharmacist's usual and customary charge, or cost of the drug plus a reasonable dispensing fee, are modified or declared invalid by a court, the ~~director~~ **secretary** and the deputy director shall pay for each prescription, the lower of:

(1) The pharmacist's usual and customary charge to the general public for the drug; or

(2) The pharmacist's cost of the drug plus a dispensing fee. The fee will be adjusted annually on July 1 of each year by the percentage change in the Consumer Price Index, except that on any July 1 immediately following a subsequent cost of dispensing survey conducted by the appropriate division of the Department of Human Services, the fee will be adjusted using the formula used by the ~~director~~ **secretary** and the deputy director to determine the July 1, 1980, fee or other such formula as may be developed subsequently by the ~~director~~ **secretary** and the deputy director with the approval of the Legislative Council.

SECTION 5225. Arkansas Code § 20-77-404 is amended to read as follows:

<< AR ST § 20-77-404 >>

20-77-404. Approval from United States Department of Health and Human Services.

(a) The ~~Director~~ **Secretary** of the Department of Human Services and the deputy director are directed to seek approval by the United States Department of Health and Human Services of the provisions of this subchapter so as to qualify this program for maximum contributions from the United States Department of Health and Human Services under its regulations until those regulations are declared invalid or modified.

(b) If, and to the extent that, the United States Department of Health and Human Services hereafter makes any valid rule that any provision of this subchapter disqualifies this program for the maximum contribution, the ~~director~~ **secretary** and the deputy director are directed to comply with any ruling to the extent necessary to qualify for the maximum contribution.

SECTION 5226. Arkansas Code § 20–77–710 is amended to read as follows:

<< AR ST § 20–77–710 >>

20–77–710. Annual report of cotrustees of Special Needs Trust Revolving Fund.

The cotrustees of the Special Needs Trust Revolving Fund shall prepare and transmit annually a report of their activities to the ~~Director~~ **Secretary** of the Department of Human Services. This report shall include the amount of benefits paid and a statistical summary of claims and benefits made and denied.

SECTION 5227. Arkansas Code § 20–77–902(7)(B)(iii)(b), concerning liability for certain acts within the State of Arkansas, is amended to read as follows:

<< AR ST § 20–77–902 >>

(b) In the case of an entity that is a Medicaid provider as defined in § 20–77–901, the person discloses, in the form and manner as the ~~Director~~ **Secretary** of the Department of Human Services requires, to the entity and upon request to the ~~director~~ **secretary** the amount received from each vendor with respect to purchases made by or on behalf of the entity; or

SECTION 5228. Arkansas Code § 20–77–902(7)(B)(iv), concerning liability for certain acts within the State of Arkansas, is amended to read as follows:

<< AR ST § 20–77–902 >>

(iv) Any payment practice specified by the ~~director~~ **secretary** promulgated pursuant to applicable federal or state law;

SECTION 5229. Arkansas Code § 20–77–910 is amended to read as follows:

<< AR ST § 20–77–910 >>

20–77–910. Suspension of violators.

The ~~Director~~ **Secretary** of the Department of Human Services may suspend or revoke the provider agreement between the Department of Human Services and the person in the event that the person is found guilty of violating the terms of this subchapter.

SECTION 5230. Arkansas Code § 20–77–1302(b), concerning the legislative intent and purpose to combat and prevent healthcare provider fraud and abuse, is amended to read as follows:

<< AR ST § 20–77–1302 >>

(b) The General Assembly intends to provide the ~~Director~~ **Secretary** of the Department of Human Services with the ability, authority, and resources to pursue administrative sanctions and liquidated damages to protect the fiscal and programmatic integrity of the medical assistance programs from healthcare providers and other persons who engage in fraud, misrepresentation, abuse, or other ill practices, as set forth in this subchapter in order to obtain payments to which these healthcare providers or persons are not entitled.

SECTION 5231. Arkansas Code § 20–77–1303(3), concerning the definition of “Department Director” under Medical Assistance Programs Integrity Law, is repealed.

<< AR ST § 20–77–1303 >>

(3) “~~Department director~~” or “~~director~~” means the ~~Director~~ of the Department of Human Services;

SECTION 5232. Arkansas Code § 20–77–1304(a)(1), concerning claims reviews and administrative sanctions, is amended to read as follows:

<< AR ST § 20–77–1304 >>

(a)(1) Pursuant to rules and regulations promulgated in accordance with the Arkansas Administrative Procedure Act, § 25–15–201 et seq., the ~~Director~~ **Secretary** of the Department of Human Services shall establish a process to review a claim made by a healthcare provider to determine whether the claim should be or should have been paid as required by federal or state law or rule.

SECTION 5233. Arkansas Code § 20–77–1304(a)(3), concerning claims reviews and administrative sanctions, is amended to read as follows:

<< AR ST § 20–77–1304 >>

(3) The ~~director~~ **secretary** may withhold payment to a healthcare provider during claims review if necessary to protect the fiscal integrity of the medical assistance programs, provided that the healthcare provider has an opportunity for a hearing within sixty (60) days of the date payment is withheld.

SECTION 5234. Arkansas Code § 20–77–1304(b)(1), concerning claims reviews and administrative sanctions, is amended to read as follows:

<< AR ST § 20–77–1304 >>

(b)(1) The ~~director~~ **secretary** may establish various types of administrative sanctions pursuant to rules and regulations promulgated in accordance with the Arkansas Administrative Procedure Act, § 25–15–201 et seq., which may be imposed on a healthcare provider or other person who violates any provision of this subchapter or any other applicable federal or state law or rule related to the medical assistance programs.

SECTION 5235. Arkansas Code § 20–77–1304(c)(1), concerning claims reviews and administrative sanctions, is amended to read as follows:

<< AR ST § 20–77–1304 >>

(c)(1) The Department of Human Services shall conduct a hearing in compliance with the Arkansas Administrative Procedure Act, § 25–15–201 et seq., at the request of a person who wishes to contest an administrative sanction imposed on him or her by the ~~director~~ **secretary**.

SECTION 5236. Arkansas Code § 20–77–1305 is amended to read as follows:

<< AR ST § 20–77–1305 >>

20–77–1305. Settlement.

The ~~Director~~ **Secretary** of the Department of Human Services may agree to settle an administrative sanction. The terms of the settlement shall be reduced to writing and signed by the parties to the agreement. The terms of the settlement shall be a public record. The settlement shall include the method and means of payment for recovery, including, but not limited to, adequate security for the full amount of the settlement.

SECTION 5237. Arkansas Code § 20–77–2510(d)(1), concerning the Department of Human Services' consultation with the Office of Medicaid Inspector General, is amended to read as follows:

<< AR ST § 20–77–2510 >>

(d)(1) ~~No later than December 1, 2013, the~~ **The Director Secretary** of the Department of Human Services in conjunction with the office shall prepare and submit an interim report to the Governor and the cochairs of the Legislative Council on the implementation of the initiatives under this section **annually**.

SECTION 5238. Arkansas Code § 20–78–215(a)(2), concerning federal funding for background checks for employees of child care facilities, is amended to read as follows:

<< AR ST § 20–78–215 >>

(2) Specifically, regulations promulgated by the ~~Director~~ **Secretary** of the Department of Human Services pursuant to this section may address federally mandated requirements for employment history and background checks and nationwide criminal record checks, as may be necessary in accordance with the provisions of Pub. L. No. 92–544, for all operators, staff, or employees, or prospective operators, staff, or employees of the child care facilities or programs as defined in this section.

SECTION 5239. Arkansas Code § 20–78–215(b), concerning federal funding for background checks for employees of child care facilities, is amended to read as follows:

<< AR ST § 20–78–215 >>

(b) In order to enable the State of Arkansas to fully participate and share in federal funds made available to the states through the Social Services Block Grant Act, or otherwise for the purposes of reducing and eliminating the incidence of child sexual abuse in child care facilities, as defined in § 20–78–202(2), the ~~director~~ **secretary** is authorized at his or

her discretion to promulgate, pursuant to the Arkansas Administrative Procedure Act, § 25–15–201 et seq., rules and regulations implementing such federal requirements as may be placed upon the states to qualify for the funds.

SECTION 5240. Arkansas Code § 23–61–803(c)(5), concerning the creation of the Arkansas Health Insurance Marketplace, is amended to read as follows:

<< AR ST § 23–61–803 >>

(5) The ~~Director~~ **Secretary** of the Department of Human Services or his or her designee as an ex officio nonvoting member.

SECTION 5241. Arkansas Code § 25–10–101 is repealed.

<< Repealed: AR ST § 25–10–101 >>

~~25–10–101. Creation—Appointment of director.~~

~~(a) There is created a Department of Human Services.~~

~~(b)(1) The executive head of the department shall be the Director of the Department of Human Services.~~

~~(2) The director shall be appointed by the Governor with the consent of the Senate and shall serve at the pleasure of the Governor.~~

SECTION 5242. Arkansas Code § 25–10–102 is amended to read as follows:

<< AR ST § 25–10–102 >>

25–10–102. Organization generally.

(a) The Department of Human Services **is a cabinet-level department and** shall consist of and be operated under an integrated service system consisting of the following programmatic divisions with responsibilities and programs assigned to them as determined by the ~~Director~~ **Secretary** of the Department of Human Services **and those state entities transferred to the Department of Human Services pursuant to a cabinet-level transfer under § 25–43–902:**

(1) The Division of Aging, Adult, and Behavioral Health Services **of the Department of Human Services;**

(2) The Division of Medical Services;

(3) The Division of Developmental Disabilities Services;

(4) The Division of County Operations;

(5) The Division of Youth Services;

~~(6) The Division of State Services for the Blind;~~

~~(7) The Division of Children and Family Services;~~

~~(8) (7) The Division of Child Care and Early Childhood Education; and~~

~~(9) (8) The Division of Provider Services and Quality Assurance.~~

(b) The ~~Director's~~ **Secretary's** Office of the Department of Human Services shall consist of:

(1) The ~~Director~~ **Secretary** of the Department of Human Services and his or her personal staff; and

(2) Shared business services operating across the divisions, offices, sections, and units of the department, including without limitation business operations and administrative functions determined necessary by the ~~director~~ **secretary**.

(c)(1)(A) Each division of the department shall be under the direction, control, and supervision of the ~~director~~ **secretary**.

(B) From time to time, the ~~director~~ **secretary** may transfer or assign existing duties or new programs or duties of the department to offices, sections, or units as he or she deems necessary for the efficient and necessary operation of the department.

(C) Before implementation of any reorganization, the ~~director~~ **secretary** shall obtain the advice of the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs.

(2)(A) However, the state institutions and the operation of state institutional programs under the jurisdiction of the Board of Developmental Disabilities Services and the Department of Human Services State Institutional System Board shall be under the control of their respective boards, as provided by law.

(B) The boards **Board of Developmental Disabilities Services and the Department of Human Services State Institutional System Board** shall perform their respective functions and duties under the general guidelines and standards promulgated by the ~~director~~ **secretary**.

~~(3) The Division of State Services for the Blind and the Board of the Division of State Services for the Blind shall continue to function within the department with the powers prescribed in § 25-10-201 et seq.~~

SECTION 5243. Arkansas Code § 25-10-104(b)-(d), concerning the Board of Developmental Disabilities Services, is amended to read as follows:

<< AR ST § 25-10-104 >>

(b) The Board of Developmental Disabilities Services shall name the administrative head or director of each of the respective institutions under the board's jurisdiction with the concurrence of the ~~Director~~ **Secretary** of the Department of Human Services.

(c) Under a type 1 transfer of the Board of Developmental Disabilities Services, and the institutions under its management and control, to the Department of Human Services, the board shall have control of all budgeting, purchasing, and related management functions in accordance with the limitations and restrictions thereon provided in this act and by other laws applicable thereto.

(d)(1) It is the intent of this section that the administration of the human development centers located at ~~Alexander~~, Arkadelphia, Booneville, Conway, Jonesboro, and the Southeast Human Development Center at Warren, and the various facilities and services thereof, shall be under the control of the Board of Developmental Disabilities Services, as provided and intended by ~~the~~ Arkansas Constitution, Amendment 33, but the board shall exercise its control in accordance with the general guidelines, policies, and regulations of the Department of Human Services governing divisions, offices, sections, or units within the department with respect to budgets, personnel and personnel policies, records, purchasing, bookkeeping, and other administrative procedures prescribed by the ~~director~~ **secretary**.

(2) It is the intent of this act that the Board of Developmental Disabilities Services shall devote its time and resources to the operation and management of the state-owned and controlled institutional programs of the various state human development centers and that the establishment and operation of community programs, workshops, and other services for individuals with developmental disabilities or individuals with intellectual disabilities in this state and other regional and community services benefiting individuals with developmental disabilities or individuals with intellectual disabilities shall be administered by the Department of Human Services through the divisions, offices, sections, or units of the department as determined by the ~~director of the department~~ **secretary**.

SECTION 5244. Arkansas Code § 25–10–106 is amended to read as follows:

<< AR ST § 25–10–106 >>

25–10–106. Division heads and other personnel.

(a)(1) The ~~Director~~ **Secretary** of the Department of Human Services, with the advice and consent of the Governor, shall ~~appoint~~ **employ** the heads of the various divisions of the Department of Human Services.

(2) The heads of the respective offices, sections, or units of the department and all other personnel of the department shall be employed by and serve at the pleasure of the ~~Director~~ **Secretary** of the Department of Human Services.

(b)(1) However, the directors of the various institutions and programs under the jurisdiction and control of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services shall be named by the ~~respective boards~~ **Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services**, with the concurrence of the ~~Director~~ **Secretary** of the Department of Human Services.

(2) All personnel employed in the institutions under the management and control of ~~those boards~~ **the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services** shall be named by the directors thereof, under the departmental rules and regulations related to personnel, and all personnel records of the ~~boards of those~~ institutions **of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services** shall be in conformance with the general personnel policies promulgated by the ~~Director~~ **Secretary** of the Department of Human Services for other employees of the department.

(c) Nothing in this act shall be construed to reduce any rights which an employee of the department or the various divisions, offices, sections, or units thereof shall have under any civil service or merit system.

SECTION 5245. Arkansas Code § 25–10–107(a), concerning reports of divisions of the Department of Human Services, is amended to read as follows:

<< AR ST § 25–10–107 >>

(a) All other divisions within the Department of Human Services shall provide the ~~Director's~~ **Secretary's** Office of the Department of Human Services with all policies regarding personnel administration, procurement of commodities and services, accounting and budget control, licensure of facilities, program planning and evaluation, contractual agreements with consultants and providers of services, data processing systems management, federal grant management, and any other information which may be requested by the office.

SECTION 5246. Arkansas Code § 25–10–108 is amended to read as follows:

25-10-108. Coordination of programs, procedures, etc., of department and institutional boards.

In addition to the functions and duties provided by law to be performed by the ~~Director~~ **Secretary** of the Department of Human Services, the ~~director~~ **secretary** shall direct those divisions, offices, sections, or units of the Department of Human Services which he or she may designate to:

(1) Serve in a liaison capacity for the Department of Human Services and the ~~director~~ **secretary** thereof with the boards and the directors of the various institutional facilities of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services in efforts to coordinate services provided citizens of this state through those institutions with programs of the department for the benefit of neglected, dependent, and delinquent juveniles, individuals with mental illness, and individuals with intellectual disabilities or individuals with developmental disabilities of this state;

(2) Cooperate with the administrators of the various institutions under the direction and control of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services in the administration of fiscal and budgetary policies applicable to all divisions and programs of the department as promulgated by the ~~director~~ **secretary** thereof and as directed by the Chief Fiscal Officer of the State;

(3) Offer assistance to the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services in developing biennial budgets and annual, quarterly, and monthly fiscal plans for the operation of those institutions and assist ~~those boards~~ **the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services** in complying with the budget and fiscal policies promulgated by the ~~Director~~ **Secretary** of the Department of Human Services for the control and management of the funds made available to the department and its various offices, divisions, programs, and institutions. In connection therewith, the ~~boards~~ **Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services** shall be furnished records of all accounts, expenditures, funds, and fund balances available to each institution for its operation and support;

(4)(A) Coordinate, with each institution and its administrator under the control and direction of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services, the purchasing policies and procedures of the department as promulgated by the ~~director~~ **secretary** thereof to assure that all those institutions comply with the uniform purchasing practices and policies of the department and with the Arkansas Procurement Law, § 19-11-201 et seq., and the rules and regulations promulgated thereunder by the State Procurement Director.

(B) However, each of the various institutions under the control of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services is authorized to have institutional purchasing officials who shall be authorized to make purchases in behalf of those institutions which are not within the exclusive jurisdiction of the State Procurement Director, but all such purchases shall be made in compliance with the uniform purchasing practices and policies promulgated by the ~~Director~~ **Secretary** of the Department of Human Services to be applicable to all divisions, offices, sections, or units of the department and shall be in conformance with the Arkansas Procurement Law, § 19-11-201 et seq., and regulations promulgated by the State Procurement Director; and

(5)(A) Coordinate the policies promulgated by the ~~Director~~ **Secretary** of the Department of Human Services for the administration of personnel and personnel records within the various divisions, offices, sections, or units of the department with the Department of Human Services State Institutional System Board, the Board of Developmental Disabilities Services within the Department of Human Services, and the administrators of each of those institutions

to assure that all employee records and personnel records conform to the personnel policies and records promulgated by the ~~Director~~ **Secretary** of the Department of Human Services and to the personnel policies and practices laws of the State of Arkansas.

(B) Nothing in this act shall prohibit or restrict the right of each of the institutional boards to employ, promote, discipline, or discharge any employee of any of those institutions so long as those actions are within the overall policies and procedures promulgated by the ~~Director~~ **Secretary** of the Department of Human Services governing employee practices or actions.

SECTION 5247. Arkansas Code § 25–10–109 is amended to read as follows:

<< AR ST § 25–10–109 >>

25–10–109. Institutional services generally — Development of admission policies, etc.

In addition to the functions and duties provided by law and this act to be performed by the Board of Developmental Disabilities Services within the Department of Human Services and the Department of Human Services State Institutional System Board, it is the intent of this act that ~~these boards~~ **the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services** shall cooperate with the ~~Director~~ **Secretary** of the Department of Human Services, the divisions, offices, sections, or units of the Department of Human Services created by this act, and the programs funded by and operated by the department by developing admission policies, criteria, and services which will assure appropriate access to institutional services to meet the residential service needs of the citizens of this state.

SECTION 5248. Arkansas Code § 25–10–111 is amended to read as follows:

<< AR ST § 25–10–111 >>

25–10–111. Budgeting generally.

(a)(1) The ~~Director~~ **Secretary** of the Department of Human Services shall obtain from each division, office, section, or unit of the Department of Human Services, including the institutions and institutional boards thereunder, all requests for biennial appropriations and all requests for special supplemental or construction appropriations.

(2) The ~~director~~ **secretary** shall review the requests and submit to the Chief Fiscal Officer of the State, the Governor, and the Legislative Council a coordinated budget for all divisions, offices, programs, institutions, and services of the department in whatever detail may be required by the state budgetary laws and by the budget forms and procedures promulgated by the Chief Fiscal Officer of the State and by the Legislative Council.

(b) It shall be the responsibility of the ~~director~~ **secretary** to operate all of its divisions, offices, and programs and to require that each of the institutional boards under the department administer their programs within those fiscal limitations and restraints which the ~~director~~ **secretary** deems necessary to assure that each program, service, and institution within the department receives an allocation of funds in accordance with the needs of the respective programs, services, and institutions and within the limitation of the moneys allocated and appropriated to the department for the operation of those programs, services, and institutions.

(c)(1) Although it is the intent of this act that the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services shall each operate their institutional programs and services within the Department of Human Services with autonomy and independence as intended by ~~the~~ Arkansas Constitution, Amendment 33, the General Assembly recognizes that reasonable fiscal policies are necessary to assure that the various services of government are operated on a sound financial basis and that deficit spending is not implemented.

(2) In furtherance of that policy, the General Assembly determines that:

(A) The ~~director~~ **secretary**, with respect to the allocation of funds and the exercise of fiscal restraint over all divisions, offices, sections, units, programs, services, and institutions within the department, shall have the ultimate authority to allocate and limit the amount of funds to be expended in the operation of each division, office, program, service, and institution within the department as he or she deems necessary to comply with the fiscal laws of this state; and

(B) Nothing herein shall be construed to limit the ultimate authority of the ~~director~~ **secretary** to develop and operate the various programs in the state institutional system.

(3) However, all real property, including capital improvements thereon, constituting the Department of Human Services State Institutional System shall be under the control of the Department of Human Services State Institutional System Board, and ~~that board~~ **the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services** may convey by sale or lease any real property within the state institutional system.

SECTION 5249. Arkansas Code § 25–10–115(a), concerning county offices of human services, is amended to read as follows:

<< AR ST § 25–10–115 >>

(a) The ~~Director~~ **Secretary** of the Department of Human Services shall establish a county office of human services in each county of this state. The county offices shall provide the citizens of each county access to the various services and programs provided by the Department of Human Services as well as follow-up contact and services.

SECTION 5250. Arkansas Code § 25–10–116(a) and (b), concerning the advisory committees of the Department of Human Services, are amended to read as follows:

<< AR ST § 25–10–116 >>

(a) From time to time, the ~~Director~~ **Secretary** of the Department of Human Services or the Governor may establish various advisory committees to assist the ~~director~~ **secretary** and the various divisions, offices, sections, or units within Department of Human Services in reviewing and offering advice on any of the programs, services, and duties of the department which the ~~director~~ **secretary** or the Governor may deem appropriate for the proper and efficient operation of the department and its respective programs, services, and duties.

(b) The advisory committees shall exist for the duration determined by the ~~director~~ **secretary** or the Governor.

SECTION 5251. Arkansas Code § 25–10–122(b), concerning the creation of the Office of Minority Mental Health, is amended to read as follows:

<< AR ST § 25–10–122 >>

(b) The head of the Office of Minority Mental Health shall be ~~appointed~~ **employed** by the ~~Director~~ **Secretary** of the Department of Human Services.

SECTION 5252. Arkansas Code § 25–10–131 is amended to read as follows:

<< AR ST § 25–10–131 >>

25–10–131. Match transfer.

The ~~Director~~ **Secretary** of the Department of Human Services, with the approval of the Chief Fiscal Officer of the State, is authorized to effect interagency fund transfers for the purpose of providing the state's matching share for payments made to that division or office, or its service providers, for services eligible for federal reimbursement under programs administered by other divisions or offices of the Department of Human Services.

SECTION 5253. Arkansas Code § 25–10–133(a)(2), concerning transfer provisions, is amended to read as follows:

<< AR ST § 25–10–133 >>

(2) Such reallocations or transfers shall be requested by the ~~Director~~ **Secretary** of the Department of Human Services.

SECTION 5254. Arkansas Code § 25–10–136(c), concerning notice of private service contract by the Division of Youth Services, is amended to read as follows:

<< AR ST § 25–10–136 >>

(c) In the event the General Assembly is in session, the ~~Director~~ **Secretary** of the Department of Human Services shall provide the report to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the ~~chair~~ **Chair** of the Senate Interim Committee on Children and Youth.

SECTION 5255. Arkansas Code § 25–10–143(a)–(h), concerning advisory opinions by the Director of the Department of Human Services, is amended to read as follows:

<< AR ST § 25–10–143 >>

(a) As used in this section, “advisory opinion” means a written statement by the ~~Director~~ **Secretary** of the Department of Human Services or his or her designee that explains the applicability to a specified set of facts of a pertinent statutory or regulatory provision relating to the provision of medical items or services under the medical assistance program administered by the Department of Human Services.

(b)(1) The ~~director~~ **secretary** may issue an advisory opinion at the request of a provider enrolled in the medical assistance program.

(2) Except as under subsection (h) of this section, the opinion is binding upon the ~~director~~ **secretary** with respect to that provider only.

(3) If the ~~director~~ **secretary** cannot respond to the request for an advisory opinion, the ~~director~~ **secretary** shall within thirty (30) days notify the provider that he or she will not be responding to the request for an opinion.

(c) A provider may request an advisory opinion concerning:

(1) A substantive question or a procedural matter;

(2) Questions arising before an audit or investigation concerning a provider's claim for payment or reimbursement; and

(3) A hypothetical or projected service plan.

(d) The ~~director~~ **secretary** shall not issue an advisory opinion if the request for an advisory opinion relates to a pending question raised by the provider in an ongoing or initiated investigation conducted by the Medicaid Inspector General, the Attorney General, a criminal investigation, or a civil or criminal proceeding, or if the provider has received a written notice from the ~~director~~ **secretary** or the Medicaid Inspector General that advises the provider of an imminent investigation, audit, suspended claim, or withholding of payment or reimbursement.

(e) This section does not supersede a federal regulation, law, requirement, or guidance.

(f) The ~~director~~ **secretary** shall adopt a rule establishing the time within which an advisory opinion shall be issued and the criteria for determining the eligibility of a request for departmental response.

(g) An advisory opinion represents an expression of the views of the ~~director~~ **secretary** as to the application of laws, rules, and other precedential material to the set of facts specified in the request for an advisory opinion.

(h)(1) A previously issued advisory opinion found by the ~~director~~ **secretary** to be in error may be modified or revoked.

(2) If the ~~director~~ **secretary** modifies or revokes an advisory opinion, the modification or revocation operates prospectively.

(3) A recovery of medical assistance overpayments caused by a provider's reliance on an advisory opinion that is later modified or revoked is prohibited for the period up until the modification or revocation unless the provider is involved in fraud.

(4) The department promptly shall notify the provider of a modification or revocation of an advisory opinion.

SECTION 5256. Arkansas Code § 25–10–402 is amended to read as follows:

<< AR ST § 25–10–402 >>

25–10–402. Purpose — Guidelines.

(a) The Department of Human Services State Institutional System Board is established to manage the Department of Human Services State Institutional System, as provided and intended by Arkansas Constitution, Amendment 33.

(b) The board shall perform its functions and duties in accordance with the general guidelines, policies, and regulations of the ~~department~~ **Department of Human Services** governing divisions, offices, sections, or units within the department with respect to budgets, personnel and personnel policies, records, purchasing, bookkeeping, and other administrative procedures prescribed by the ~~Director~~ **Secretary** of the Department of Human Services.

SECTION 5257. Arkansas Code Title 25, Chapter 43, Subchapter 10 is amended to read as follows:

Subchapter 10 — Department of Inspector General

<< AR ST § 25–43–1001 >>

25–43–1001. Department of Inspector General.

There is created the Department of Inspector General as a cabinet-level department.

<< AR ST § 25–43–1002 >>

25–43–1002. State entities transferred to Department of Inspector General.

(a) The administrative functions of the following state entities are transferred to the Department of Inspector General under a cabinet-level transfer:

- (1) The Arkansas Fair Housing Commission, created under § 16–123–303;**
- (2) The Internal Audit Section, created under § 19–4–105; and**
- (3) The Office of Medicaid Inspector General, created under § 20–77–2503.**

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

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

<< AR ST § 25–43–1003 >>

25–43–1003. Secretary of Department of Inspector General.

(a) The executive head of the Department of Inspector General shall be the Secretary of the Department of Inspector General.

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

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

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

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

- (1) Hire department personnel;**
- (2) Perform or assign duties assigned to the department; and**
- (3) Serve as the director or the administrative or executive head of any state entity under the administrative control of the department if the secretary also meets all statutory requirements for the position.**

(f) The secretary has the authority to direct the department as necessary to conduct and supervise activities to prevent, detect, and investigate fraud and abuse.

SECTION 5258. Arkansas Code § 16–123–305 is amended to read as follows:

<< AR ST § 16–123–305 >>

16–123–305. Director.

(a)(1) The Governor shall appoint a Director of the Arkansas Fair Housing Commission who shall serve at the pleasure of the Governor.

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

(2) (3) The Arkansas Fair Housing Commission may fix the compensation, duties, authority, and responsibilities of the director.

(b) The commission may authorize the director to hire necessary staff and to provide for services, furnishings, equipment, and office space **and employees of the commission shall be employees of the department.**

SECTION 5259. Arkansas Code § 19–4–105 is amended to read as follows:

<< AR ST § 19–4–105 >>

19–4–105. Continuing studies and investigations — Duties of ~~Chief Fiscal Officer of the State~~ Secretary of the Department of Inspector General and Internal Audit Section — Exemption of internal audit documentation from Freedom of Information Act of 1967.

(a) The ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Inspector General** is directed to make continuing studies and investigations of the operation of state agencies and to make recommendations to the General Assembly, the Legislative Council, and the Governor about improvements which should be made in order to:

- (1) Safeguard against excessive expenditures of appropriations and funds;
- (2) Promote economy, efficiency, and control in the operation of state agencies; **and**
- (3) ~~Properly execute budgets; and~~
- (4) Accomplish the purposes of this chapter as intended by the General Assembly.

(b) The Internal Audit Section created under the Department of Finance and Administration by Governor's Executive Order 99–08 **and transferred to the Department of Inspector General by a cabinet-level department transfer under § 25–43–1002** shall conduct its audits using the suggested standards for the professional practice of internal auditing as adopted by the Institute of Internal Auditors.

(c) The Internal Audit Section shall:

- (1) Review the financial and operating controls and the transactions of state agencies to determine the level of conformity with established laws, standards, regulations, and procedures;
- (2) Review the various functions within an enterprise to appraise the efficiency and economy of operations and the effectiveness with which those functions achieve the stated objectives, including without limitation a review of established internal control activities;
- (3) Investigate reported occurrences of fraud, embezzlement, theft, waste, abuse, or mismanagement of state resources;
- (4) Recommend controls to prevent occurrences of fraud, embezzlement, theft, waste, abuse, or mismanagement of state resources;
- (5) Assist state agencies to resolve areas of concern;
- (6) Assist state agencies in establishing appropriate internal controls that will prevent errors or irregularities;

(7) Provide objective analysis, appraisals, and recommendations concerning the activities it reviews; and

(8) Perform other functions as directed by the Governor, ~~Chief Fiscal Officer of the State~~ **or the Secretary of the Department of Inspector General**, ~~or other board or government entity charged with authority over the Internal Audit Section by executive order~~ .

(d) After an audit is completed, the Internal Audit Section shall file a written final report concerning the actions and determinations made under this section with:

(1) ~~The Chief Fiscal Officer of the State~~ **Secretary of the Department of Inspector General**;

(2) The Governor;

(3) The State Board of Finance; **and**

(4) Arkansas Legislative Audit; ~~and~~

(5) ~~Any other board or government entity charged with authority over the Internal Audit Section by executive order~~ .

(e) Employees of the Internal Audit Section shall:

(1) Be employed by the ~~Governor or other board or government entity charged with authority over the Internal Audit Section by executive order~~ **Secretary of the Department of Inspector General as employees of the Department of Inspector General**; and

(2) Serve at the pleasure of the ~~Governor or other board or government entity charged with authority over the Internal Audit Section by executive order~~ **Secretary of the Department of Inspector General**.

(f)(1) All internal audit documentation, including notes, memoranda, preliminary drafts of audit reports, and other data gathered in the preparation of internal audit reports by the Internal Audit Section, are privileged and confidential and are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., except as provided in subdivision (f)(2) of this section.

(2)(A) The exemption shall not apply to completed internal audits of the Internal Audit Section after a final report of the internal audit has been presented to:

(i) ~~The Chief Fiscal Officer of the State~~ **Secretary of the Department of Inspector General**;

(ii) The Governor or the Governor's designee;

(iii) The State Board of Finance; or

(iv) Arkansas Legislative Audit; ~~or~~

(v) ~~Any other board or government entity charged with authority over the Internal Audit Section by executive order~~ .

(B) The final report and copies of any supporting documentation shall then be open to public inspection and copying, except for documents that are exempt from disclosure under other law.

SECTION 5260. Arkansas Code § 20-77-2503 is amended to read as follows:

<< AR ST § 20-77-2503 >>

20-77-2503. Office of Medicaid Inspector General — Created.

The Office of Medicaid Inspector General is created within the ~~office of the Governor~~ **Department of Inspector General** and is independent from the Department of Human Services.

SECTION 5261. Arkansas Code § 20-77-2504 is amended to read as follows:

<< AR ST § 20-77-2504 >>

20-77-2504. Medicaid Inspector General — Appointment — Qualifications.

- (a)(1) The Medicaid Inspector General shall be appointed by the Governor, with the advice and consent of the Senate.
- (2) The inspector shall serve at the pleasure of the Governor.
- (b) The inspector shall report ~~directly to the Governor~~ **to the Secretary of the Department of Inspector General**.
- (c) The Medicaid Inspector General shall be the Director of the Office of Medicaid Inspector General.
- (d) The inspector **Medicaid Inspector General** shall have not less than ten (10) years of professional experience in one (1) or more of the following areas of expertise:
- (1) Prosecution for fraud;
 - (2) Fraud investigation;
 - (3) Auditing; or
 - (4) Comparable alternate experience in health care, if the healthcare experience involves some consideration of fraud.

SECTION 5262. Arkansas Code § 20-77-2506 is amended to read as follows:

<< AR ST § 20-77-2506 >>

20-77-2506. Medicaid Inspector General — Duties.

The Medicaid Inspector General shall, **in consultation with the Secretary of the Department of Inspector General**:

- (1) Hire deputies, directors, assistants, and other officers and employees needed for the performance of his or her duties and prescribe the duties of deputies, directors, assistants, and other officers and fix the compensation of deputies, directors, assistants, and other officers within the amounts appropriated;
- (2)(A) Conduct and supervise activities to prevent, detect, and investigate medical assistance program fraud and abuse.
 - (B)(i) The Office of Medicaid Inspector General shall review provider records only for the three (3) years before an investigation begins.
 - (ii) However, if a credible allegation of fraud has been made or if the ~~office~~ **Office of Medicaid Inspector General** has reason to believe that fraud has occurred, the Office of Medicaid Inspector General may review provider records for the five (5) years before the investigation began;
- (3) Work in a coordinated and cooperative manner with:

- (A) Federal, state, and local law enforcement agencies;
 - (B) The Medicaid Fraud Control Unit of the office of the Attorney General;
 - (C) United States Attorneys;
 - (D) **The** United States Department of Health and Human Services' Office of Inspector General;
 - (E) The Federal Bureau of Investigation;
 - (F) The **United States** Drug Enforcement Administration;
 - (G) Prosecuting attorneys;
 - (H) The Centers for Medicare and Medicaid Services; and
 - (I) An investigative unit maintained by a health insurer;
- (4) Solicit, receive, and investigate complaints related to fraud and abuse within the medical assistance program;
- (5)(A) Inform the Governor, **the Secretary of the Department of Inspector General**, the Attorney General, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives regarding efforts to prevent, detect, investigate, and prosecute fraud and abuse within the medical assistance program.
- (B) All cases in which fraud is determined to have occurred shall be referred to the appropriate law enforcement agency for prosecution;
- (6)(A) Pursue civil and administrative enforcement actions against an individual or entity that engages in fraud, abuse, or illegal or improper acts within the medical assistance program, including without limitation:
- (i) Referral of information and evidence to regulatory agencies and licensure boards;
 - (ii) Withholding payment of medical assistance funds in accordance with state laws and rules and federal laws and regulations;
 - (iii) Imposition of administrative sanctions and penalties in accordance with state laws and rules and federal laws and regulations;
 - (iv) Exclusion of providers, vendors, and contractors from participation in the medical assistance program;
 - (v) Initiating and maintaining actions for civil recovery and, where authorized by law, seizure of property or other assets connected with improper payments;
 - (vi) Entering into civil settlements; and
 - (vii) Recovery of improperly expended medical assistance program funds from those who engage in fraud or abuse or illegal or improper acts perpetrated within the medical assistance program.
- (B) In investigating civil and administrative enforcement actions under subdivision (a)(6)(A) of this section, the Medicaid Inspector General shall consider the quality and availability of medical care and services and the best interest of both the medical assistance program and recipients;
- (7) Make available to appropriate law enforcement officials information and evidence relating to suspected criminal acts that have been obtained in the course of the Medicaid Inspector General's duties;

(8)(A) Refer suspected fraud or criminal activity to the Medicaid Fraud Control Unit.

(B) After a referral and with ten (10) days' written notice to the Medicaid Fraud Control Unit, the Medicaid Inspector General may provide relevant information about suspected fraud or criminal activity to another federal or state law enforcement agency that the ~~inspector~~ **Medicaid Inspector General** deems appropriate under the circumstances;

(9) Subpoena and enforce the attendance of witnesses, administer oaths or affirmations, examine witnesses under oath, and take testimony in connection with an investigation or audit under this subchapter and under rules governing these investigations;

(10) Require and compel the production of books, papers, records, and documents as he or she deems relevant or material to an investigation, examination, or review undertaken under this section;

(11)(A) Examine and copy or remove documents or records related to the medical assistance program or necessary for the Medicaid Inspector General to perform his or her duties if the documents are prepared, maintained, or held by or available to a state agency or local governmental entity the patients or clients of which are served by the medical assistance program, or the entity is otherwise responsible for the control of fraud and abuse within the medical assistance program.

(B) A document or record examined and copied or removed by the Medicaid Inspector General under subdivision (11)(A) of this section is confidential.

(C) The removal of a record under subdivision (11)(A) of this section is limited to circumstances in which a copy of the record is insufficient for an appropriate legal or investigative purpose.

(D) For a removal under subdivision (11)(A) of this section, the Medicaid Inspector General shall copy the record and ensure the expedited return of the original, or of a copy if the original is required for an appropriate legal or investigative purpose, so that the information is expedited and the original or copy is readily accessible for the care and treatment needs of the patient;

(12)(A) Recommend and implement policies relating to the prevention and detection of fraud and abuse.

(B) The Medicaid Inspector General shall obtain the consent of the Attorney General before the implementation of a policy under subdivision (12)(A) of this section that may affect the operations of the office of the Attorney General;

(13)(A) Monitor the implementation of a recommendation made by the Office of Medicaid Inspector General to an agency or other entity with responsibility for administration of the medical assistance program and produce a report detailing the results of its monitoring activity as necessary.

(B) The report shall be submitted to the:

(i) ~~Governor~~ **Secretary of the Department of Inspector General**;

(ii) President Pro Tempore of the Senate;

(iii) Speaker of the House of Representatives;

(iv) Legislative Council;

(v) Arkansas Legislative Audit; and

(vi) Attorney General;

(14) Prepare cases, provide testimony, and support administrative hearings and other legal proceedings;

(15) Review and audit contracts, cost reports, claims, bills, and other expenditures of medical assistance program funds to determine compliance with applicable state laws and rules and federal laws and regulations and take actions authorized by state laws and rules and federal laws and regulations;

(16)(A) Work with the fiscal agent employed to operate the Medicaid Management Information System of the Department of Human Services to optimize the system, including without limitation the ability to add edits and audits in consultation with the Department of Human Services.

(B) The Medicaid Inspector General shall be consulted before an edit or audit is added or discontinued by the Department of Human Services;

(17) Work in a coordinated and cooperative manner with relevant agencies in the implementation of information technology relating to the prevention and identification of fraud and abuse in the medical assistance program;

(18)(A) Conduct educational programs for medical assistance program providers, vendors, contractors, and recipients designed to limit fraud and abuse within the medical assistance program.

(B) The Office of Medicaid Inspector General shall regularly communicate with and educate providers about the Office of Medicaid Inspector General's fraud and abuse prevention program and its audit policies and procedures.

(C) The Office of Medicaid Inspector General shall educate providers annually concerning its areas of focus within the medical assistance program, appropriate billing and documentation, and methods for improving compliance with program rules, policies, and procedures;

(19)(A) Develop protocols to facilitate the efficient self-disclosure consistent with the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and the collection of overpayments and monitor collections, including those that are self-disclosed by providers.

(B) A provider's good faith self-disclosure of overpayments may be considered as a mitigating factor in the determination of an administrative enforcement action;

(20) Receive and investigate complaints of alleged failures of state and local officials to prevent, detect, and prosecute fraud and abuse in the medical assistance program;

(21) Implement rules relating to the prevention, detection, investigation, and referral of fraud and abuse within the medical assistance program and to the recovery of improperly expended medical assistance program funds;

(22) Conduct, in the context of the investigation of fraud and abuse, on-site inspections of a facility or an office;

(23)(A) Take appropriate authorized actions to ensure that the medical assistance program is the payor of last resort; and

(B) Recommend to the ~~department~~ **Department of Human Services** that it take appropriate actions authorized under the ~~department's~~ jurisdiction **of the Department of Human Services** to ensure that the medical assistance program is the payor of last resort;

(24) Annually submit a budget request for the next state fiscal year to the Governor;

(25) Identify and order the return of underpayments to providers;

- (26) Maintain the confidentiality of all information and documents that are deemed confidential by law;
- (27) Implement, facilitate, and maintain federally required directives and contracts required for Medicaid integrity programs;
- (28) Implement and maintain a hotline for reporting complaints regarding fraud, waste, and abuse by providers;
- (29) Audit, investigate, and access Medicaid encounter data, premium data, or other information from an entity contracted with for the purpose of serving Medicaid programs;
- (30)(A) Promulgate administrative rules to establish policies and procedures for audits and investigations that are consistent with the duties of the Office of Medicaid Inspector General under this chapter.
- (B) The rules shall be posted on the Office of Medicaid Inspector General's website;
- (31) Identify conflicts between the Medicaid state plan, department **Department of Human Services** rules, Medicaid provider manuals, Medicaid notices, or other guidance and recommend that the department **Department of Human Services** reconcile inconsistencies;
- (32) When conducting an audit, investigation, or review under this subchapter, classify violations as either:
- (A) Errors that do not rise to the level of fraud or abuse; or
- (B) Fraud or abuse;
- (33)(A) If a credible allegation of fraud has been made, review provider records that have been the subject of a previous audit or review for the purpose of fraud investigation and referral.
- (B) However, the Medicaid Inspector General shall not duplicate an audit of a contract, cost report, claim, bill, or expenditure of a medical assistance program fund that has been the subject of a previous audit or review by or on behalf of the Office of Medicaid Inspector General, the Medicaid Fraud Control Unit, or other federal agency with authority over the medical assistance program if the audit or review was performed in accordance with the Government Auditing Standards;
- (34)(A) Utilize a quality improvement organization as part of the assessment of quality of services.
- (B) The quality improvement organization shall refer all identified improper payments due to technical deficiencies, abuse, waste, or fraud to the Medicaid Inspector General for further investigation and appropriate action, including without limitation recovery; and
- (35) Perform other functions necessary or appropriate to fulfill the duties and responsibilities of the Office of Medicaid Inspector General.

SECTION 5263. Arkansas Code § 20–77–2509(a), concerning the reports required of the Medicaid Inspector General, is amended to read as follows:

<< AR ST § 20–77–2509 >>

(a) The Medicaid Inspector General shall, no later than October 1 of each year, submit to the ~~Governor~~ **Secretary of the Department of Inspector General**, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, Arkansas Legislative Audit, the Legislative Council, and the Attorney General a report summarizing the activities of the Office of Medicaid Inspector General during the preceding calendar year.

SECTION 5264. Arkansas Code § 20-77-2509(d) and (e), concerning the reports required of the Medicaid Inspector General, are amended to read as follows:

<< AR ST § 20-77-2509 >>

(d)(1) In making the report required under subsection (a) of this section, the ~~inspector~~ **Medicaid Inspector General** shall not disclose information that jeopardizes an ongoing investigation or proceeding.

(2) The ~~inspector~~ **Medicaid Inspector General** may disclose information in the report required under subsection (a) of this section if the information does not jeopardize an ongoing investigation or proceeding and the ~~inspector~~ **Medicaid Inspector General** fully apprises the designated recipients of the scope and quality of the office's activities.

(e) Quarterly by April 1, July 1, October 1, and January 1 of each year, the ~~inspector~~ **Medicaid Inspector General** shall submit to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the ~~Division of~~ **Arkansas** Legislative Audit, the Legislative Council, and the Attorney General an accountability statement providing a statistical profile of the referrals made to the Medicaid Fraud Control Unit of the office of the Attorney General, audits, investigations, and recoveries.

SECTION 5265. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 11 — Department of Labor and Licensing

<< AR ST § 25-43-1101 >>

25-43-1101. Department of Labor and Licensing.

There is created the Department of Labor and Licensing as a cabinet-level department.

<< AR ST § 25-43-1102 >>

25-43-1102. State entities transferred to Department of Labor and Licensing.

(a) The administrative functions of the following state entities are transferred to the Department of Labor and Licensing by a cabinet-level department transfer:

- (1) The Arkansas Abstracters' Board, created under § 17-11-401;**
- (2) The Arkansas Appraiser Licensing and Certification Board, created under § 17-14-201;**
- (3) The Arkansas Fire Protection Licensing Board, created under § 20-22-606;**
- (4) The Arkansas Home Inspector Registration Board, created under § 17-52-304;**
- (5) The Arkansas Manufactured Home Commission, created under § 20-25-105;**
- (6) The Arkansas Mediation and Conciliation Service, defined under § 11-2-203;**
- (7) The Arkansas Motor Vehicle Commission, created under § 23-112-201;**
- (8) The Arkansas Real Estate Commission, created under § 17-42-201;**
- (9) The Arkansas State Board of Architects, Landscape Architects, and Interior Designers, created under § 17-15-201;**

- (10) The Arkansas State Board of Public Accountancy, created under § 17-12-201;
- (11) The Arkansas Towing and Recovery Board, created under § 27-50-1203;
- (12) The Auctioneer's Licensing Board, created under § 17-17-201;
- (13) The Board of Electrical Examiners of the State of Arkansas, created under § 17-28-201;
- (14) The Contractors Licensing Board, created under § 17-25-201;
- (15) The Department of Labor, created under § 25-43-404; now to be known as the Division of Labor;
- (16) The Elevator Inspection and Permits "Elevator Safety Board" under § 20-24-105;
- (17) The HVACR Licensing Board, created under § 17-33-201;
- (18) The Pawnbroker Licensure Commission, created under § 17-56-201;
- (19) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, created under § 17-19-106;
- (20) The State Athletic Commission, created under § 17-22-201;
- (21) The State Board of Barber Examiners, created under § 17-20-201;
- (22) The State Board of Collection Agencies, created under § 17-24-201;
- (23) The State Board of Licensure for Professional Engineers and Professional Surveyors, created under § 17-30-201;
- (24) The State Board of Registration for Professional Geologists, created under § 17-32-201; and
- (25) The Workers' Compensation Commission, created under § 11-9-201.

(b) Unless otherwise provided by law, a cabinet-level department transfer under subsection (a) of this section includes all state entities under a state entity transferred to the Department of Labor and Licensing under subsection (a) of this section, including without limitation a division, office, program, or other unit of a state entity transferred to the Department of Labor and Licensing under subsection (a) of this section.

(c) Unless otherwise provided by law, a state entity whose administrative functions have been transferred to the Labor and Licensing under subsection (a) of this section shall otherwise continue to exercise the duties of the state entity under the administration of the cabinet-level Department of Labor and Licensing in the same manner as before the creation of the cabinet-level department.

<< AR ST § 25-43-1103 >>

25-43-1103. Secretary of the Department of Labor and Licensing.

- (a) The executive head of the Department of Labor and Licensing shall be the Secretary of the Department of Labor and Licensing.
- (b) The secretary shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.
- (c) Each division of the department shall be under the direction, control, and supervision of the secretary.

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

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

(1) Hire department personnel;

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

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

<< AR ST § 25-43-1104 >>

25-43-1104. Organization.

(a) The Department of Labor and Licensing shall consist of those divisions of the Department of Labor which existed as of June 30, 2019, those state entities transferred to the department pursuant to § 25-43-402, and any other divisions or state entities which may be created by law and placed under the department.

(b) Members of a statutory board or commission transferred to the department pursuant to a cabinet-level transfer shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to that board or commission as such statutes may from time to time be amended.

<< AR ST § 25-43-1105. >>

25-43-1105. Division of Labor.

(a) There is created a Division of Labor within the Department of Labor and Licensing.

(b) The Secretary of the Department of Labor and Licensing may delegate any duties and responsibilities to the Division of Labor.

(c) The Division of Labor shall retain the statutory duties delegated to the division.

(d) The Secretary of the Department of Labor and Licensing may employ a Director of the Division of Labor.

<< AR ST § 25-43-1106 >>

25-43-1106. Division of Occupational and Professional Licensing Boards and Commissions.

(a) There is created a Division of Occupational and Professional Licensing Boards and Commissions within the Department of Labor and Licensing.

(b) The Secretary of the Department of Labor and Licensing may delegate any duties and responsibilities to the Division of Occupational and Professional Licensing Boards and Commissions.

(c) The Secretary of the Department of Labor and Licensing may employ a Director of the Division of Occupational and Professional Licensing Boards and Commissions.

SECTION 5266. Arkansas Code § 5-64-1301 is amended to read as follows:

<< AR ST § 5-64-1301 >>

5-64-1301. Possession of anhydrous ammonia in unlawful container.

Any person who knowingly possesses anhydrous ammonia in a container that does not comply with the regulations of the Boiler Inspection Division of the ~~Department~~ **Division** of Labor for the containment of anhydrous ammonia is guilty of a Class B felony.

SECTION 5267. Arkansas Code § 8-7-1003(a)(2), concerning the definition of “director” under the Public Employees' Chemical Right to Know Act, is repealed.

<< AR ST § 8-7-1003 >>

(2) “Director” means the ~~Director of the Department of Labor or his or her designee;~~

SECTION 5268. Arkansas Code § 8-7-1004(1), concerning the duties of public employers under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

<< AR ST § 8-7-1004 >>

(1) Post adequate notice, as provided by the Director of the ~~Department~~ **Division** of Labor, at locations where notices are normally posted, informing public employees about their rights under this subchapter;

SECTION 5269. Arkansas Code § 8-7-1006(e), concerning material safety data sheets under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

<< AR ST § 8-7-1006 >>

(e) A public employer, chemical manufacturer, or distributor shall provide a copy of a material safety data sheet to the Director of the ~~Department~~ **Division** of Labor upon request.

SECTION 5270. Arkansas Code § 8-7-1007(b), concerning workplace chemical lists under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

<< AR ST § 8-7-1007 >>

(b) Each public employer shall file the workplace chemical list with the Director of the Department of Labor **or the Division of Labor** no later than ninety (90) days after July 1, 1991, and shall update the workplace chemical list as necessary, but in any case by July 1 of each subsequent year.

SECTION 5271. Arkansas Code § 8-7-1008(b)(1), concerning employee information and training under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

<< AR ST § 8-7-1008 >>

(b)(1) The information and training program provided pursuant to this section shall be developed in accordance with regulations to be promulgated by the Director of the Department of Labor **or the Division of Labor** pursuant to § 8-7-1011 within six (6) months after July 1, 1991.

SECTION 5272. Arkansas Code § 8-7-1009(a), concerning outreach activities of the Director of the Department of Labor under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

<< AR ST § 8-7-1009 >>

(a) The Director of the ~~Department~~ **Division** of Labor shall develop and give each public employer a suitable form of notice providing public employees with information regarding their rights under this subchapter.

SECTION 5273. Arkansas Code § 8-7-1010(b), concerning the rights of public employees under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

<< AR ST § 8-7-1010 >>

(b) No public employer shall discharge or cause to be discharged or otherwise discipline or discriminate against a public employee because the public employee has requested information, filed a complaint, assisted an inspector of the Director of the ~~Department~~ **Division** of Labor, or instituted or caused to be instituted any complaint or proceeding under or related to this subchapter or has testified or is about to testify in any such proceeding or has exercised any rights afforded by this subchapter on behalf of the public employee or other public employees, nor shall any pay, position, seniority, or other benefits to which the public employee may be entitled be lost because the public employee exercised rights afforded by this subchapter.

SECTION 5274. Arkansas Code § 8-7-1011(a), concerning rule-making under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

<< AR ST § 8-7-1011 >>

(a) The Director of the ~~Department~~ **Division** of Labor may promulgate rules and regulations in accordance with the provisions of §§ 11-2-110, 11-2-112, and 11-2-113 to implement the provisions of this subchapter. This authority shall include, but not be limited to, the authority to implement changes corresponding to future amendments to the Hazard Communication Standard to maintain consistency between this subchapter and the Hazard Communication Standard.

SECTION 5275. Arkansas Code § 8-7-1012(a)(4), concerning rulemaking under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

<< AR ST § 8-7-1012 >>

(4) The specific chemical identity is made available to health professionals, employees, and their designated representatives under the same conditions as are set out in the Hazard Communication Standard, 29 C.F.R. § 1910.1200(i)(2)-(7), provided, the information disclosable to the United States Occupational Safety and Health Administration under the Hazard Communication Standard shall also be disclosable to the Director of the ~~Department~~ **Division** of Labor.

SECTION 5276. Arkansas Code § 8–7–1013(a), concerning complaints and investigations under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

<< AR ST § 8–7–1013 >>

(a) Complaints received orally or in writing from public employees, their designated representatives, or public employers related to alleged violations of this subchapter shall be investigated in a timely manner by the Director of the ~~Department~~ **Division** of Labor.

SECTION 5277. Arkansas Code § 8–7–1014(a), concerning enforcement under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

<< AR ST § 8–7–1014 >>

(a) If the Director of the ~~Department~~ **Division** of Labor determines that a public employer has violated a provision of this subchapter, the director shall issue an order to the official responsible for performing the duties required by this subchapter directing that official to cease and desist the act or omission constituting the violation. Such an order shall constitute prima facie evidence of a violation in any enforcement action filed pursuant to § 8–7–1015.

SECTION 5278. Arkansas Code § 8–7–1015(a), concerning attorney's fees and a cause of action under the Public Employees' Chemical Right to Know Act, is amended to read as follows:

<< AR ST § 8–7–1015 >>

(a) Any citizen denied the rights granted to him or her by this subchapter may commence a civil action against a public employer or responsible official of a public employer in the Pulaski County Circuit Court or the circuit court of the residence of the aggrieved party, if an agency of the state is involved, or any of the circuit courts of the appropriate judicial districts when any other public employer is involved. Issuance of a cease and desist order by the Director of the ~~Department~~ **Division** of Labor shall not be a prerequisite to the commencement of such an action.

SECTION 5279. Arkansas Code § 11–2–101 is amended to read as follows:

<< AR ST § 11–2–101 >>

11–2–101. Purpose.

The purpose of the ~~Department~~ **Division** of Labor shall be to foster, promote, and develop the welfare of the wage earners of Arkansas, to improve their working conditions, and to advance their opportunities for profitable employment.

SECTION 5280. Arkansas Code § 11–2–104(a), concerning penalties for violations of orders of the Director of the Department of Labor, is amended to read as follows:

<< AR ST § 11–2–104 >>

(a) Any employer or owner who violates or fails or refuses to comply with any provision of this subchapter, any lawful order of the Director of the ~~Department~~ **Division** of Labor, or any judgment or decree made by any court in connection with the provisions of this subchapter for which no penalty has been otherwise provided shall be guilty of a misdemeanor.

SECTION 5281. Arkansas Code § 11–2–105(a)(1), concerning enforcement actions upon request of the Director of the Department of Labor, is amended to read as follows:

<< AR ST § 11–2–105 >>

(a)(1) It shall be the duty of the Attorney General and the several prosecuting attorneys, upon request of the Director of the ~~Department~~ **Division** of Labor, or any of his or her authorized representatives, to prosecute any violation of the law that is the duty of the director to enforce.

SECTION 5282. Arkansas Code § 11–2–106 is repealed.

<< Repealed: AR ST § 11–2–106 >>

~~11–2–106. Creation.~~

~~(a) A Department of Labor is created and established under the supervision and direction of a director to be known as the Director of the Department of Labor.~~

~~(b) The director may set up within the department such divisions as he or she may deem necessary for the exercise of the powers and the performance of the duties of the department, except as otherwise provided by law.~~

SECTION 5283. Arkansas Code § 11–2–107(a)–(c), concerning the appointment of the Director of the Department of Labor, is amended to read as follows:

<< AR ST § 11–2–107 >>

(a) The Governor shall appoint the Director of the ~~Department~~ **Division** of Labor, subject to confirmation by the Senate.

(b)(1) The director shall serve at the pleasure of the Governor.

(2) The director shall report to the Secretary of the Department of Labor and Licensing.

(2) **(3)** The director shall be a person who, on account of his or her previous vocation, employment, or affiliation can be classed as a representative of employees.

~~(3) Any individual chosen to fill a vacancy shall be appointed only for the unexpired portion of the term of the director whom he or she shall succeed, and shall have the same qualifications as the director.~~

(4) All appointments made while the Senate is not in regular session shall be effective ad interim.

(c) The director shall give a bond in the sum of two thousand dollars (\$2,000) with sureties to be approved by the ~~Governor~~ **Secretary of the Department of Labor and Licensing**, conditioned for the faithful discharge of the duties of his or her office.

SECTION 5284. Arkansas Code § 11–2–108 is amended to read as follows:

<< AR ST § 11–2–108 >>

11–2–108. Director — Powers and duties generally.

In addition to such other duties and powers as may be conferred upon him or her by law, the Director of the ~~Department~~ **Division** of Labor shall have the power, jurisdiction, and authority:

- (1) To enforce all labor laws in the State of Arkansas, the enforcement of which is not otherwise specifically provided for;
- (2) To administer and enforce all laws, rules, and regulations that are the duty of the ~~Department~~ **Division** of Labor to administer and enforce;
- (3) To direct, except as otherwise provided, make, or cause to be made all necessary inspections to see that all laws and rules made pursuant thereto that the ~~department~~ **division** has the duty, power, and authority to enforce are promptly and effectively carried out; and
- (4) To make investigations, collect and compile statistical information, and report upon conditions of labor generally and upon all matters relating to the enforcement and effect of the provisions of this subchapter and of the rules issued under this subchapter.

SECTION 5285. Arkansas Code § 11–2–109 is amended to read as follows:

<< AR ST § 11–2–109 >>

11–2–109. Director — Intervention in and arbitration of labor disputes.

(a) In addition to such other duties and powers as may be conferred upon him or her by law, the Director of the ~~Department~~ **Division** of Labor shall have the power, jurisdiction, and authority:

(1)(A) To intervene or authorize his or her representative to intervene in any labor dispute in a strictly conciliatory or mediatory capacity whenever he or she is extended a written invitation to do so by either party to the controversy.

(B) However, the ~~Department~~ **Division** of Labor may proffer its services to both parties when a work stoppage is threatened and neither party requests intervention;

(2) To do all in his or her power to promote the voluntary arbitration of disputes between employers and employees and to avoid the necessity of resorting to lockouts, boycotts, blacklists, discriminations, and legal proceedings in matters of employment.

(b)(1) In pursuance of his or her duty, whenever both sides to any controversy agree to voluntary arbitration, the director may appoint temporary boards of arbitration, prescribe rules of procedure for the arbitration boards, conduct investigations and hearings, publish reports and advertisements, and do all things convenient and necessary to accomplish the purposes of this subchapter.

(2) Members of the boards of arbitration may receive expense reimbursement in accordance with § 25–16–901 et seq.

(c)(1) The ~~director~~ **secretary** may designate an employee of the ~~department~~ **division** to act as chief mediator and may detail other employees or persons not in the ~~department~~ **division** from time to time to act as his or her assistants for the purpose of executing these provisions.

(2) Employees of the ~~department~~ **division** shall serve on temporary boards without extra compensation.

SECTION 5286. Arkansas Code § 11–2–110 is amended to read as follows:

<< AR ST § 11-2-110 >>

11-2-110. Director — Rulemaking authority.

(a) In addition to such other powers and duties as may be conferred upon him or her by law, the Director of the ~~Department~~ **Division** of Labor shall have the power to make, modify, and repeal reasonable rules for the prevention of accidents or industrial or occupational diseases in every employment or place of employment and to make, modify, and repeal reasonable rules for the construction, repair, and maintenance of places of employment, places of public assembly, and public buildings which shall render them safe.

(b) The director shall have the power to make, modify, or repeal such rules, or changes in rules, as he or she may deem necessary to carry out the provisions of this subchapter.

(c) The director may appoint committees composed of employers, employees, and experts to suggest rules or changes therein.

(d) The rules of the director shall have the force and effect of law and shall be enforced by the director in the same manner as the provisions of this subchapter.

SECTION 5287. Arkansas Code § 11-2-111 is amended to read as follows:

<< AR ST § 11-2-111 >>

11-2-111. Office — Employees — Location of hearings.

(a) The ~~Director~~ **Secretary** of the Department of Labor **and Licensing** is authorized to appoint a deputy director, a secretary, the heads of divisions, and such other employees as may be necessary. He or she is authorized to assign them to their duties and recommend to the General Assembly the salaries that are to be fixed by appropriation.

(b) The ~~Department~~ **Division** of Labor shall keep an office in the ~~City of Little Rock~~ **Pulaski County** and shall maintain such other office as shall meet the convenience of the ~~department~~ **division** and the public.

(c) The members, employees, and agents of the ~~department~~ **division** shall be entitled to receive from the state their necessary and actual expenses while traveling on the business of the ~~department~~ **division** either within or without the State of Arkansas.

(d) The ~~director~~ **secretary** and his or her authorized representatives may hold hearings at any place other than the Capitol when the convenience of the ~~department~~ **division** and of the interested parties requires.

SECTION 5288. Arkansas Code § 11-2-112 is amended to read as follows:

<< AR ST § 11-2-112 >>

11-2-112. Promulgation of rules.

(a) Before any rule is adopted, amended, or repealed, there shall be a public hearing thereon, notice of which shall be published at least once and not less than ten (10) days prior to the public hearing in such newspaper as the Director of the ~~Department~~ **Division** of Labor may prescribe.

(b)(1) All rules and all amendments and repeals thereof shall, unless otherwise prescribed by the director, take effect thirty (30) days after the first publication thereof, and certified copies shall be filed in the office of the Secretary of State.

(2) Every rule adopted and every amendment or repeal shall be published in such manner as the director may determine, and the director shall deliver a copy to every person making application therefor. The director shall include the text of each rule or amendment in an appendix to the annual report of the ~~department~~ **Division of Labor** next following the adoption or amendment of the rule.

SECTION 5289. Arkansas Code § 11-2-113(a), concerning variation of rules of the Department of Labor due to difficulties or hardship, is amended to read as follows:

<< AR ST § 11-2-113 >>

(a) If there shall be practical difficulties or unnecessary hardships in carrying out a rule of the Director of the ~~Department~~ **Division** of Labor, the director may, after public hearing, make a variation from such requirement if the spirit of the rule and law shall be observed.

SECTION 5290. Arkansas Code § 11-2-114(a)(1), concerning judicial review of rules of the Director of the Department of Labor, is amended to read as follows:

<< AR ST § 11-2-114 >>

(a)(1) Any person aggrieved by a rule of the Director of the ~~Department~~ **Division** of Labor made pursuant to § 11-2-112 may commence an action in the Pulaski County Circuit Court against the ~~Department~~ **Division** of Labor, as defendant, to set aside the rule on the ground that it is unlawful or unreasonable.

SECTION 5291. Arkansas Code § 11-2-115(a)(1), concerning the inspection of employer records, is amended to read as follows:

<< AR ST § 11-2-115 >>

(a)(1) Every employer or owner shall furnish to the Director of the ~~Department~~ **Division** of Labor any information that the director is authorized to require and shall make true and specific answers to all questions, whether submitted orally or in writing, authorized to be put to the employer or owner.

SECTION 5292. Arkansas Code § 11-2-115(b), concerning the inspection of employer records, is amended to read as follows:

<< AR ST § 11-2-115 >>

(b) The director and any authorized representative of the ~~Department~~ **Division** of Labor shall, for the purpose of examination, have access to and the right to copy from any book, account, record, payroll, paper, or documents relating to the employment of workers.

SECTION 5293. Arkansas Code § 11-2-116(a), concerning the authority to enter and inspect workplaces, is amended to read as follows:

<< AR ST § 11-2-116 >>

(a) The Director of the ~~Department~~ **Division** of Labor and his or her authorized representatives shall have the power and authority to enter any place of employment, place of public assembly, or public building for the purpose of collecting

facts and statistics relating to the employment of workers and of making inspections for the proper enforcement of all labor laws of the state.

SECTION 5294. Arkansas Code § 11–2–117(c), concerning the duties of an employer to provide a safe place of employment, is amended to read as follows:

<< AR ST § 11–2–117 >>

(c) If the Director of the ~~Department~~ **Division** of Labor or his or her authorized representative finds that any machine, tool, or equipment, or any part thereof, is in a dangerous condition, is not properly guarded, or is dangerously placed, he or she shall attach to the machine, tool, or equipment a notice warning all persons against its use and setting out in complete detail the conditions that render the machine, tool, or equipment unfit for service. The machine, tool, or equipment shall not be used until it is made safe, the required safeguards or safety appliances or devices as set forth in the certificate attached thereto have been fully corrected, and notice of the correction is sent to the ~~Department~~ **Division** of Labor by registered mail, accompanied by a certificate from a competent mechanic certifying correction of the defects.

SECTION 5295. Arkansas Code § 11–2–118 is amended to read as follows:

<< AR ST § 11–2–118 >>

11–2–118. Oaths, certifications, subpoenas, etc. — Enforcement by contempt.

(a) The Director of the ~~Department~~ **Division** of Labor and any officer of the ~~Department~~ **Division** of Labor designated by the director, in the performance of any duty or the execution of any power prescribed by law, shall have the power to administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents, records, and testimony.

(b) In case of failure of any person to comply with any subpoena lawfully issued or on the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it shall be the duty of any court of competent jurisdiction or the judge thereof, upon application of the director or any officer or agent of the ~~department~~ **division**, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued for the court or a refusal to testify therein.

SECTION 5296. Arkansas Code § 11–2–119 is amended to read as follows:

<< AR ST § 11–2–119 >>

11–2–119. False statements made under oath deemed perjury.

Any employer or owner who shall knowingly testify falsely, under oath, or shall knowingly make, give, or produce any false statements or false evidence, under oath, to the Director of the ~~Department~~ **Division** of Labor or his or her authorized representatives shall be deemed guilty of perjury.

SECTION 5297. Arkansas Code § 11–2–120 is amended to read as follows:

<< AR ST § 11–2–120 >>

11–2–120. Annual report.

(a) The Director of the ~~Department~~ **Division** of Labor shall annually, on or before January 1, file with the ~~Governor~~ **Secretary of Labor and Licensing** a report covering the activities of the ~~Department~~ **Division** of Labor, accompanied by

recommendations with reference to such changes in the law, applying to and affecting industrial and labor conditions, as the director may deem advisable.

(b) The report of the director shall be printed and distributed in such manner as the Governor **Secretary of the Department of Labor and Licensing** shall authorize.

SECTION 5298. Arkansas Code § 11-2-121 is amended to read as follows:

<< AR ST § 11-2-121 >>

11-2-121. Agreements with government agencies.

(a) The Director of the ~~Department~~ **Division** of Labor is authorized to enter into agreements with the United States Government and any and all other state governments for assistance and cooperation in enforcing and implementing state and federal laws and projects in fields related to the ~~Department~~ **Division** of Labor.

(b)(1) The ~~department~~ **division** may accept payment or reimbursement for its services as provided by the acts of Congress or the legislature of any other state.

(2) All payments or funds received by the ~~department~~ **division** under this section shall be deposited into the State Treasury, to be expended as provided by law.

SECTION 5299. Arkansas Code § 11-2-122(b), concerning the disclosure of the availability of health benefits to employees, is amended to read as follows:

<< AR ST § 11-2-122 >>

(b) The notification shall be made at such time and in such manner as prescribed by regulation promulgated by the Director of the ~~Department~~ **Division** of Labor.

SECTION 5300. Arkansas Code § 11-2-123(a), concerning the employment training and placement programs for ex-offenders, is amended to read as follows:

<< AR ST § 11-2-123 >>

(a) In order to help facilitate the restoration of an ex-offender's responsibility and self-sufficiency, the ~~Department~~ **Division** of Labor shall work in conjunction with other appropriate state agencies, the private sector, and labor organizations to promulgate rules for implementing placement and training programs for ex-offenders.

SECTION 5301. Arkansas Code § 11-2-203 is amended to read as follows:

<< AR ST § 11-2-203 >>

11-2-203. Definitions Definition.

For the purpose of this subchapter, unless the context otherwise requires, **the term**:

(1) "Director" means the Director of the Department of Labor;

(2) "Person **person**" means one (1) or more individuals, joint ventures, partnerships, associations, corporations, states, municipalities, business trusts, legal representatives, or any organized group of employees;

(3) “Service” means the ~~Arkansas Mediation and Conciliation Service of the Department of Labor~~; and

(4) “State” means the State of Arkansas .

SECTION 5302. Arkansas Code § 11–2–204(a), concerning the confidential records and information of the Arkansas Mediation and Conciliation Service, is amended to read as follows:

<< AR ST § 11–2–204 >>

(a) All files, reports, letters, memoranda, minutes, documents, or other papers in the official custody of the Arkansas Mediation and Conciliation Service or any of its employees, or any other information, whether written or not, obtained in the course of any employee's official duties, relating to or acquired in its or their official activities under the labor laws of the state or the rules and regulations lawfully promulgated by the Director of the ~~Department~~ **Division** of Labor, are confidential.

SECTION 5303. Arkansas Code § 11–2–205(b)(2), concerning the compliance with subpoenas by the Arkansas Mediation and Conciliation Service, is amended to read as follows:

<< AR ST § 11–2–205 >>

(2) Immediately upon receipt of the subpoena, the mediator or former mediator or employee should contact the Director of the ~~Department~~ **Division** of Labor, who shall immediately notify the staff attorneys of the Department of Labor **and Licensing** of the state to ensure that the procedures set forth in this subchapter will be followed. The director then shall instruct the staff attorneys to appear in behalf of the mediator and protect the service from any disclosure that violates the provisions contained in this subchapter.

SECTION 5304. Arkansas Code § 11–2–206(a)(1), concerning judicial review of orders of the Arkansas Mediation and Conciliation Service, is amended to read as follows:

<< AR ST § 11–2–206 >>

(a)(1) The mediator or the Director of the ~~Department~~ **Division** of Labor on his or her behalf or the Attorney General on his or her behalf may obtain a review of the order requiring him or her to testify.

SECTION 5305. Arkansas Code § 11–3–203(a)(3), concerning medical examination as a condition for employment, is amended to read as follows:

<< AR ST § 11–3–203 >>

(3) Notwithstanding subdivision (a)(1) of this section, if an employee tests positive for an illegal drug as defined by rule of the ~~Department~~ **Division** of Labor, the employer and employee may agree in writing who will bear the cost of future drug tests or screens required as a condition of continued employment.

SECTION 5306. Arkansas Code § 11–3–203(c), concerning medical examination as a condition for employment, is amended to read as follows:

<< AR ST § 11–3–203 >>

(c) The Director of the ~~Department~~ **Division** of Labor shall administer and enforce this section, including without limitation, by:

(1) Adopting administrative rules; and

(2) Demanding payment and seeking recovery in a court of competent jurisdiction for charges, fees, wage deductions, or other payments made by employees as a result of an employer's violation of this section.

SECTION 5307. Arkansas Code § 11-4-203(1), concerning the definition of “director” under the laws governing minimum wages, is repealed.

<< AR ST § 11-4-203 >>

(1) ~~“Director” means the Director of the Department of Labor;~~

SECTION 5308. Arkansas Code § 11-4-203(3)(R)(ii)(b), concerning the definition of “employee” under the laws governing minimum wages, is amended to read as follows:

<< AR ST § 11-4-203 >>

(b) The retroactive effect of this subdivision (3)(R) does not impose liability on the ~~Department~~ **Division** of Labor or on an employee to repay damages, back wages, civil money penalties, or other moneys collected or paid by the ~~department~~ **division** or received by an employee;

SECTION 5309. Arkansas Code § 11-4-206(a)(1), concerning the penalties under the laws governing minimum wages, is amended to read as follows:

<< AR ST § 11-4-206 >>

(a)(1) Any employer who willfully hinders or delays the Director of the ~~Department~~ **Division** of Labor or his or her authorized representative in the performance of his or her duties in the enforcement of this subchapter, willfully refuses to admit the director or his or her authorized representative to any place of employment, willfully fails to make, keep, and preserve any records as required under the provisions of this subchapter, willfully falsifies any such record, willfully refuses to make the record accessible to the director or his or her authorized representative upon demand, willfully refuses to furnish a sworn statement of the record or any other information required for the proper enforcement of this subchapter to the director or his or her authorized representative upon demand, willfully fails to post a summary of this subchapter or a copy of any applicable regulations as required by § 11-4-216, pays or agrees to pay minimum wages at a rate less than the rate applicable under this subchapter, or otherwise willfully violates any provision of this subchapter or of any regulation issued under this subchapter shall be deemed in violation of this subchapter and shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000) for each violation.

SECTION 5310. Arkansas Code § 11-4-206(g), concerning the penalties under the laws governing minimum wages, is amended to read as follows:

<< AR ST § 11-4-206 >>

(g) Sums collected under this section shall be paid into the Department of Labor **and Licensing** Special Fund.

SECTION 5311. Arkansas Code § 11-4-209(a), concerning the powers and duties of the Director of the Department of Labor, is amended to read as follows:

<< AR ST § 11-4-209 >>

(a) For any occupation, the Director of the ~~Department~~ **Division** of Labor shall make and revise such administrative regulations, including definitions of terms, as he or she may deem appropriate to carry out the purposes of this subchapter or necessary to prevent the circumvention or evasion thereof and to safeguard the minimum wage rates established.

SECTION 5312. The introductory language of Arkansas Code § 11-4-211(g), concerning overtime, is amended to read as follows:

<< AR ST § 11-4-211 >>

(g) By rule or regulation, the Director of the ~~Department~~ **Division** of Labor may authorize employment in excess of the standard set by subsection (a) of this section or may authorize the calculation of overtime on a basis other than the regular rate of pay required by subsection (a) of this section for employment:

SECTION 5313. Arkansas Code § 11-4-212(b), concerning the allowance for gratuities, is amended to read as follows:

<< AR ST § 11-4-212 >>

(b) In determining whether an employee received in gratuities the amount claimed, the Director of the ~~Department~~ **Division** of Labor may require the employee to show to the satisfaction of the director that the actual amount of gratuities received by him or her during any work week was less than the amount determined by the employer as the amount by which the wage paid the employee was deemed to be increased under this section.

SECTION 5314. Arkansas Code § 11-4-213(b), concerning the allowance for furnishing board, lodging, apparel, and other items, is amended to read as follows:

<< AR ST § 11-4-213 >>

(b) In determining whether an employee received board, lodging, apparel, or other items and services having a reasonable value of less than thirty cents (30¢) per hour during any work week, the Director of the ~~Department~~ **Division** of Labor may require the employee to show to the satisfaction of the director that the reasonable value of items and services received by the employee was less than the amount determined by the employer as the amount by which the wage paid the employee was deemed to be increased under this section.

SECTION 5315. Arkansas Code § 11-4-214(a), concerning disabled workers, is amended to read as follows:

<< AR ST § 11-4-214 >>

(a) Any person handicapped by lack of skill, age, or physical or mental deficiency or injury in any way that his or her earning capacity is impaired shall be granted a temporary special exemption license or permit authorizing the employment of the person at wages lower than the minimum prescribed in this subchapter until such time as the Director of the

Department **Division** of Labor shall hold a hearing and prescribe regulations regarding exemption of these persons as authorized in this section.

SECTION 5316. Arkansas Code § 11-4-215(a), concerning learners, apprentices, and full-time students, is amended to read as follows:

<< AR ST § 11-4-215 >>

(a) For any occupation, the Director of the Department **Division** of Labor may provide, by regulation, after a public hearing at which any person may be heard, for the employment in the occupation of learners, apprentices, and full-time students at wages lower than the minimum wage rate provided in § 11-4-210(b) as he or she may find appropriate to prevent curtailment of opportunities for employment and to safeguard the minimum wage rate under this subchapter.

SECTION 5317. Arkansas Code § 11-4-216(a), concerning the posting of laws, is amended to read as follows:

<< AR ST § 11-4-216 >>

(a) Every employer subject to any provisions of this subchapter or of any regulations issued under this subchapter shall keep a summary of this subchapter, approved by the Director of the Department **Division** of Labor, and copies of any applicable regulations issued under this subchapter, or a summary of the regulations approved by the director, posted in a conspicuous and accessible place in or about the premises wherein any person subject thereto is employed.

SECTION 5318. Arkansas Code § 11-4-217(a), concerning records kept by employers, is amended to read as follows:

<< AR ST § 11-4-217 >>

(a) Every employer subject to any provision of this subchapter or of any regulation issued under this subchapter shall make and keep for a period of not less than three (3) years in or about the premises wherein any employee is employed a record of the name, address, and occupation of each of his or her employees, the rate of pay, the amount paid each pay period to each employee, and such other information as the Director of the Department **Division** of Labor shall prescribe by regulation as necessary or appropriate for the enforcement of the provisions of this subchapter or of the regulations under this subchapter.

SECTION 5319. Arkansas Code § 11-4-218(d)(1), concerning an employee's remedies, is amended to read as follows:

<< AR ST § 11-4-218 >>

(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 5320. Arkansas Code § 11-4-219(b), concerning judicial review of an administrative regulation, is amended to read as follows:

<< AR ST § 11-4-219 >>

(b) A copy of the petition shall be served upon the Director of the Department **Division** of Labor.

SECTION 5321. 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:

<< AR ST § 11-4-220 >>

(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 5322. Arkansas Code § 11-4-303 is amended to read as follows:

<< AR ST § 11-4-303 >>

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 5323. Arkansas Code § 11-4-304 is amended to read as follows:

<< AR ST § 11-4-304 >>

11-4-304. Judicial review.

(a) If either employer or employee shall fail or refuse to accept the findings of the Director of the ~~Department~~ **Division** of Labor, then either shall have the right to proceed at law as provided.

(b) If the claim is meritorious, and if within the discretion of the director the claimant's lack of financial ability entitles him or her to the services of the ~~department~~ **Division of Labor**, the director in the name of the State of Arkansas, for the benefit of the claimant, may institute action in any court of competent jurisdiction, without paying costs or giving bond for costs, and shall be entitled to all remedies available to litigants in the prosecution of actions and their enforcement, if successful.

(c) Nothing in this section shall be construed so as to relieve an unsuccessful defendant from paying costs.

SECTION 5324. Arkansas Code § 11-4-306 is amended to read as follows:

<< AR ST § 11-4-306 >>

11-4-306. Fees prohibited.

The Director of the ~~Department~~ **Division** of Labor or any person designated by him or her shall not charge or be permitted to accept any fees or remuneration whatsoever from any person for the performance of any duties under this subchapter.

SECTION 5325. Arkansas Code § 11-4-402(b)(3), concerning payments made in currency and discounts for advance payment, is amended to read as follows:

<< AR ST § 11-4-402 >>

(3) This subsection (b) does not apply to any demand or claim by the ~~Department~~ **Division** of Labor.

SECTION 5326. Arkansas Code § 11-4-608 is amended to read as follows:

<< AR ST § 11-4-608 >>

11-4-608. Penalties for violation of §§ 11-4-607 — 11-4-612.

Any employer who violates any provision of §§ 11-4-607 — 11-4-612, or who discharges or in any other manner discriminates against any employee because the employee has made a complaint to his or her employer, the Director of the ~~Department~~ **Division** of Labor, or any other person, has instituted or caused to be instituted any proceedings under or related to §§ 11-4-607 — 11-4-612, or has testified or is about to testify in any such proceeding shall be fined not more than five hundred dollars (\$500) nor imprisoned more than one (1) year, or both.

SECTION 5327. Arkansas Code § 11-4-609 is amended to read as follows:

<< AR ST § 11-4-609 >>

11-4-609. Administration of §§ 11-4-607 — 11-4-612.

The Director of the ~~Department~~ **Division** of Labor shall have the power and it shall be his or her duty to carry out and administer the provisions of §§ 11-4-607 — 11-4-612.

SECTION 5328. Arkansas Code § 11-4-611(b)(4), concerning an action to collect unpaid wages, is amended to read as follows:

<< AR ST § 11-4-611 >>

(4) At the request of any employee paid less than the wage to which he or she is entitled under §§ 11-4-607 — 11-4-612, the Director of the ~~Department~~ **Division** of Labor may take an assignment of the wage claim in trust for the employee and shall bring any legal action necessary to collect the claim. The director shall not be required to pay any court costs in connection with the action.

SECTION 5329. Arkansas Code § 11-5-101(c), concerning the suitable temperature, humidity, and air space required, is amended to read as follows:

<< AR ST § 11-5-101 >>

(c) In every room, apartment, or building used as a factory, mill, workshop, mercantile establishment, laundry, or other place of employment, sufficient air space shall be provided for every employee which in the judgment of the Director of the ~~Department~~ **Division** of Labor or of his or her deputies and inspectors is sufficient for the employees health and welfare.

SECTION 5330. Arkansas Code § 11-5-107(a), concerning the inspection of a working place, is amended to read as follows:

<< AR ST § 11-5-107 >>

(a) The Director of the ~~Department~~ **Division** of Labor or any of his or her deputies or inspectors shall have the right to enter any factory, mill, workshop, mercantile establishment, laundry, or other establishment where three (3) or more persons are employed for the purpose of making inspections and enforcing the provisions of §§ 11-5-101 — 11-5-111.

SECTION 5331. Arkansas Code § 11-5-108 is amended to read as follows:

<< AR ST § 11-5-108 >>

11-5-108. Order to correct conditions — Issuance.

(a) The Director of the ~~Department~~ **Division** of Labor or any of his or her deputies or inspectors may issue a written order to the owner, manager, superintendent, or other person in control or management of the place or establishment for the correction of any condition caused or permitted in or about the place or establishment in violation of any of the requirements of §§ 11-5-101 — 11-5-111, or of any condition, practice, plan, or method used therein or thereabouts in supposed compliance with any requirement of §§ 11-5-101 — 11-5-111 but which are found to be inadequate or insufficient, in any respect, to comply therewith, and shall state in the order how the conditions, practices, plans, or methods, in any case, shall be corrected and the time within which they shall be corrected, a reasonable time being given in the order therefor.

(b) One (1) copy of the order shall be delivered to the owner, manager, superintendent, or other person in control or management of the place or establishment, and one (1) copy shall be filed in the office of the ~~Department~~ **Division** of Labor.

SECTION 5332. Arkansas Code § 11-5-109(b)(1), concerning the conclusiveness of an order to correct conditions, is amended to read as follows:

<< AR ST § 11-5-109 >>

(b)(1) The owner or owners, manager, superintendent, or other person in control or management of any place or establishment covered by this chapter, and directly affected by any finding or order provided for in §§ 11-5-107 and 11-5-108, may, within fifteen (15) days from the date of the delivery to him, her, or them of a copy of the order as provided for in §§ 11-5-107 and 11-5-108, file a petition setting forth the particular cause of objection to the order and findings in a court of competent jurisdiction against the Director of the ~~Department~~ **Division** of Labor.

SECTION 5333. Arkansas Code § 11-5-110(a), concerning the penalties for noncompliance with an order to correct conditions, is amended to read as follows:

<< AR ST § 11-5-110 >>

(a) Upon the failure or refusal of the owner, manager, superintendent, or other person in control or management of a place or establishment, to comply with an order issued pursuant to § 11-5-108 within the time therein specified, unless it has been attacked and suspended or set aside as provided for in § 11-5-109, the Director of the ~~Department~~ **Division** of Labor or his or her deputy or inspectors shall have full authority and power to close the place or establishment, or any part of it that may be in an unsanitary or dangerous condition or contain immoral influences in violation of any requirement of §§ 11-5-101 — 11-5-110 or order, until such time as the condition, practice, or method is corrected.

SECTION 5334. Arkansas Code § 11-5-112(b)(1), concerning the requirement of separate toilet rooms for males and females, is amended to read as follows:

<< AR ST § 11-5-112 >>

(b)(1) The Director of the ~~Department~~ **Division** of Labor shall enforce the provisions of this section and shall give notice in writing to employers violating it.

SECTION 5335. Arkansas Code § 11-5-307(a)(1), concerning a notification of an overhead electrical line or conductor, is amended to read as follows:

<< AR ST § 11-5-307 >>

(a)(1) When any person, firm, or corporation desires to temporarily carry on any function, activity, work, or operation in closer proximity to any energized overhead electrical line or conductor than permitted by this subchapter, the person or persons responsible for the work to be done shall promptly notify the Director of the ~~Department~~ **Division** of Labor and the operator or owner of the electrical lines in writing of the work to be performed and make appropriate arrangements with the operator of the electrical lines before proceeding with any work which would impair the clearances required by this subchapter.

SECTION 5336. Arkansas Code § 11-5-308(c)(4), concerning prohibited acts, is amended to read as follows:

<< AR ST § 11-5-308 >>

(4) In addition to the requirements of subdivisions (c)(1)(A) and (B) of this section, there shall be installed an insulated cage-type guard or protective device, approved by the Director of the ~~Department~~ **Division** of Labor, about the boom or arm of all equipment, except backhoes or dippers. Where the equipment includes a lifting hook device also approved by the director, all lifting lines shall be equipped with insulator links on the lift hook connection.

SECTION 5337. Arkansas Code § 11-6-103(b), resulting from Initiated Act 1 of 1914 and concerning the disposition of fines and penalties, is amended to read as follows:

<< AR ST § 11-6-103 >>

(b) The Director of the ~~Department~~ **Division** of Labor shall determine the amount of such penalty and shall consider the appropriateness of such penalty to the size of the business and the gravity of the violation.

SECTION 5338. Arkansas Code § 11-6-103(e), resulting from Initiated Act 1 of 1914 and concerning the disposition of fines and penalties, is amended to read as follows:

<< AR ST § 11-6-103 >>

(e) Sums collected under this section shall be paid into the Department of Labor **and Licensing** Special Fund.

SECTION 5339. Arkansas Code § 11-6-107(b)(1), resulting from Initiated Act 1 of 1914 and concerning prohibitions against certain kinds and places of work for children under sixteen (16) years of age, is amended to read as follows:

<< AR ST § 11-6-107 >>

(b)(1) The Director of the ~~Department~~ **Division** of Labor may, from time to time after a hearing duly had, determine what other occupations are sufficiently dangerous to the life or limb or injurious to the health or morals of children under sixteen (16) years to justify their exclusion therefrom. No child under sixteen (16) years of age shall be employed or permitted to work in any occupation thus determined to be dangerous or injurious.

SECTION 5340. Arkansas Code § 11-6-109(a), resulting from Initiated Act 1 of 1914 and concerning children under age sixteen (16) years and the requirement of an employment certificate, is amended to read as follows:

<< AR ST § 11-6-109 >>

(a) No person, firm, or corporation shall employ or permit any child under sixteen (16) years to work in or in connection with any establishment or occupation unless the person, firm, or corporation employing the child procures and keeps on file, accessible to the ~~Department~~ **Division** of Labor and the ~~Department of Education~~ **Division of Elementary and Secondary Education**, or local school officials, an employment certificate as provided in this section.

SECTION 5341. Arkansas Code § 11-6-109(b)(1), resulting from Initiated Act 1 of 1914 and concerning children under age sixteen (16) years and the requirement of an employment certificate, is amended to read as follows:

<< AR ST § 11-6-109 >>

(b)(1) The employment certificate shall be issued only by the Director of the ~~Department~~ **Division** of Labor.

SECTION 5342. Arkansas Code § 11-6-111(a), resulting from Initiated Act 1 of 1914 and concerning the prosecution of violators and the right to inspect a workplace, is amended to read as follows:

<< AR ST § 11-6-111 >>

(a) The Director of the ~~Department~~ **Division** of Labor or his or her designee shall have the right to enter any building or premises for the purpose of inspection to ascertain whether any child is employed or permitted to work in violation of the provisions of this subchapter.

SECTION 5343. Arkansas Code § 11-6-115(a), concerning domestic labor and child care in connection with church functions permitted, is amended to read as follows:

<< AR ST § 11-6-115 >>

(a) As used in this section, “domestic labor” means any occasional, irregular, or incidental work related to and in or around private residences, including, but not limited to babysitting, pet sitting, similar household chores, and manual yard work. This definition specifically excludes industrial homework, work for a third party such as a sitting service, and any activity determined by the Director of the ~~Department~~ **Division** of Labor to be hazardous pursuant to the provisions of § 11-6-107(b).

SECTION 5344. Arkansas Code § 11-7-204(c), concerning the appointment, term, and qualifications of the State Mine Inspector, is amended to read as follows:

<< AR ST § 11-7-204 >>

(c) The Governor alone **and the Secretary of the Department of Labor and Licensing** shall have the power to remove a mine inspector for cause.

SECTION 5345. Arkansas Code § 11-7-204(e), concerning the appointment, term, and qualifications of the State Mine Inspector, is amended to add an additional subsection to read as follows:

<< AR ST § 11-7-204 >>

(e) The State Mine Inspector shall report to the Secretary of Labor and Licensing and shall be an employee of the Department of Labor and Licensing.

SECTION 5346. Arkansas Code § 11-7-207(g), concerning the Assistant State Mine Inspector, is amended to add an additional subsection to read as follows:

<< AR ST § 11-7-207 >>

(g) The Assistant State Mine Inspector shall report to the State Mine Inspector and shall be an employee of the Department of Labor and Licensing.

SECTION 5347. Arkansas Code § 11-7-402(a), concerning the power of the Director of the Department of Labor to administer oaths, is amended to read as follows:

<< AR ST § 11-7-402 >>

(a) To more effectively carry out the intentions and purposes of this section and §§ 11-7-409 — 11-7-414, the Director of the ~~Department~~ **Division** of Labor may administer oaths to all persons who are applicants, or who may vouch, in any manner, for the previous service or qualifications of an applicant to obtain for him or her a certificate under this section and §§ 11-7-409 — 11-7-414.

SECTION 5348. Arkansas Code § 11-7-403(a)-(c), concerning employee qualification, are amended to read as follows:

<< AR ST § 11-7-403 >>

(a) No fire bosses, hoisting engineers, or mine foremen shall be employed in any mine in the State of Arkansas unless they have been examined by the ~~Department~~ **Division** of Labor or the ~~department~~ **division** determines that comparable testing criteria have been met in another jurisdiction.

(b) No one shall act as State Mine Inspector or Assistant State Mine Inspector unless he or she has been examined by the ~~department~~ **division**, as provided in this section.

(c) Applicants for examination shall be able to read and write the English language and shall satisfy the ~~department~~ **division** that they are of good moral character and are not users of intoxicating liquors and are citizens of the United States.

SECTION 5349. Arkansas Code § 11-7-403(f), concerning the payment of fees for examination, is amended to read as follows:

<< AR ST § 11-7-403 >>

(f)(1) Applicants for certificates as mine inspector shall, before examination, pay to the ~~department~~ **division** a fee of four dollars (\$4.00) and, if successful, a further fee of six dollars (\$6.00) for a certificate.

(2) Applicants for certificates as assistant mine inspector shall, before examination, pay to the ~~department~~ **division** a fee of three dollars (\$3.00) and, if successful, a further fee of four dollars and fifty cents (\$4.50) for a certificate.

(3) Applicants for certificates as mine foremen and hoisting engineers shall, before examination, pay to the ~~department~~ **division** a fee of two dollars (\$2.00) and, if successful, a further fee of three dollars (\$3.00) for a certificate.

(4) Other applicants shall, before examination, pay to the ~~department~~ **division** of examiners a fee of one dollar (\$1.00) and, if successful, a further fee of two dollars (\$2.00) for a certificate.

SECTION 5350. Arkansas Code § 11-7-404(a)(1), concerning the certificate and grades of fire bosses and mine foremen, is amended to read as follows:

<< AR ST § 11-7-404 >>

(a)(1) The Director of the ~~Department~~ **Division** of Labor shall grant certificates after examination by the ~~Department~~ **Division** of Labor or a determination by the ~~department~~ **division** that the testing requirements have been satisfied in another jurisdiction.

SECTION 5351. Arkansas Code § 11-7-405 is amended to read as follows:

<< AR ST § 11-7-405 >>

11-7-405. Fire bosses, mine foremen, etc. — Duplicate certificate.

In case of loss or destruction of a certificate, the Director of the ~~Department~~ **Division** of Labor, upon satisfactory proof of the loss or destruction, may issue a duplicate on the payment of the sum of one dollar (\$1.00).

SECTION 5352. Arkansas Code § 11-7-406(a), concerning the revocation of certificates, is amended to read as follows:

<< AR ST § 11-7-406 >>

(a) All certificates issued pursuant to this subchapter may be revoked by the Director of the ~~Department~~ **Division** of Labor after a hearing upon due notice to the holder of the certificate and upon written charges preferred by the director or by some interested person for violation of this section and §§ 11-7-403 — 11-7-405 and 11-7-407.

SECTION 5353. Arkansas Code § 11-7-410(a), concerning coal miners' certificates, is amended to read as follows:

<< AR ST § 11-7-410 >>

(a) It shall be unlawful for any person to work as a coal miner in any coal mine in this state without first having a certificate of qualification and competency to do so from the Director of the ~~Department~~ **Division** of Labor, nor shall any person, firm, or corporation employ as a coal miner in his or her coal mine in the State of Arkansas any person who

does not hold a certificate, nor shall any mine foreman, overseer, or superintendent permit or suffer any person to be employed under him or her, or in any coal mine under his or her charge or supervision, as a coal miner in this state, except as provided in this act, who does not hold a certificate of qualification.

SECTION 5354. Arkansas Code § 11-7-411(a), concerning coal miners' examinations, qualifications, and certificates, is amended to read as follows:

<< AR ST § 11-7-411 >>

(a) The Director of the ~~Department~~ **Division** of Labor shall hold sufficient examinations each year in places to be determined by the director, which, in his or her opinion, will be most convenient to applicants desiring to engage in the business of coal mining.

SECTION 5355. Arkansas Code § 11-7-412(a), concerning coal miners' temporary permits and grandfather clause, is amended to read as follows:

<< AR ST § 11-7-412 >>

(a) A person making application for a coal miner's certificate of competency and qualification shall be granted a temporary permit to work until such time as an examination is held by the Director of the ~~Department~~ **Division** of Labor and if, in the judgment of the director, he or she is so qualified.

SECTION 5356. Arkansas Code § 11-7-414 is amended to read as follows:

<< AR ST § 11-7-414 >>

11-7-414. Coal miners — Duplicate certificate — Revocation of certificate.

The Director of the ~~Department~~ **Division** of Labor shall possess powers to issue duplicate certificates and revoke certificates in all cases as provided in §§ 11-7-405 and 11-7-406.

SECTION 5357. Arkansas Code § 11-9-205(b)(1) and (2), resulting from Initiated Act 4 of 1948, concerning the administration of the Workers' Compensation Law, are amended to read as follows:

<< AR ST § 11-9-205 >>

(b)(1) The commission may appoint as many persons as may be necessary to be administrative law judges and in addition may appoint such examiners, rate experts, investigators, medical examiners, clerks, and other employees as it deems necessary to effectuate the provisions of this chapter, provided that the appointment of all rate experts shall be made by the ~~Insurance Commissioner~~ **Secretary of the Department of Labor and Licensing**, whose duty it is to approve the rates charged.

(2) Rate experts shall be considered employees of the commission and the ~~Insurance Commissioner~~ **Department of Labor and Licensing** and shall be paid from the Workers' Compensation Fund.

SECTION 5358. Arkansas Code § 11-9-207(a)(12), resulting from Initiated Act 4 of 1948 and concerning the powers and duties of the Workers' Compensation Commission, is amended to read as follows:

<< AR ST § 11-9-207 >>

(12) To make available all records in connection with all cases of personal injury to the ~~Director~~ **Secretary** of the Department of Labor **and Licensing**. The ~~director~~ **secretary** may propose rules for the prevention of injuries and transmit the rules to the commission. The commission may recommend proposed rules for prevention of injuries to the ~~director~~ **secretary**;

SECTION 5359. Arkansas Code § 11-9-209, resulting from Initiated Act 4 of 1948, is amended to read as follows:

<< AR ST § 11-9-209 >>

11-9-209. Statistical data collection.

(a) The Workers' Compensation Commission shall publish annually, on an aggregate basis, information pertaining to the distribution of workers' compensation insurance premiums, losses, expenses, and net income to be compiled from reports required to be filed with the ~~Insurance Commissioner~~ **Secretary of the Department of Labor and Licensing** pursuant to § 23-63-216, as amended, or any similar information required to be filed by the ~~Insurance Commissioner~~ **secretary** regarding workers' compensation insurance.

(b) The commission shall also publish in that same annual report information regarding aggregate workers' compensation benefit distribution to claimants, medical providers, and attorneys if that specific information or similar information becomes available from revised or additional reporting requirements that may be required by the ~~Insurance Commissioner~~ **secretary**.

SECTION 5360. Arkansas Code § 11-9-409(a)(2)-(9), concerning safety and health loss control consultative services, are amended to read as follows:

<< AR ST § 11-9-409 >>

(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 assigning appropriate priorities based on frequency of injuries, degree of hazard, severity of injuries, and similar considerations.

(C) Such educational materials shall include specific references to the requirements of state and federal laws and regulations, to recommendations and practices of business, industry, and trade associations, and, where needed, to recommended work practices based on recommendations made by the division, in cooperation and with the assistance of the Department of Labor **and Licensing** and the State Insurance Department, for the prevention of injury.

(6) In cooperation with and with the assistance of the Department of Labor **and Licensing** and the State Insurance Department, the division shall cooperate with employers and employees to develop means and methods of educating employees and employers with regard to workplace safety.

(7) In cooperation with and with the assistance of the Department of Labor **and Licensing** and the State Insurance Department, the division shall encourage other entities to develop safety courses, safety plans, and safety programs.

(8) In cooperation with and with the assistance of the Department of Labor **and Licensing** and the State Insurance Department, the division shall certify safe employers to provide peer review safety programs.

(9) In cooperation with and with the assistance of the Department of Labor **and Licensing** and the State Insurance Department, the division shall advise insurance carrier loss control service organizations of hazard classifications, specific employers, industries, occupations, or geographic regions to which loss control services should be directed or of the identity and types of injuries or occupational diseases for prevention of the same to which loss control services should be directed and shall advise insurance carrier loss control service organizations of safety needs and priorities recommended by the division in cooperation with and with the assistance of the Department of Labor **and Licensing** and the State Insurance Department.

SECTION 5361. Arkansas Code § 11-9-409(b)(1), concerning safety and health loss control consultative services, is amended to read as follows:

<< AR ST § 11-9-409 >>

(b) Job Safety Information System.

(1) In cooperation with and with the assistance of the Department of Labor **and Licensing** and the State Insurance Department, the division shall establish and maintain a job safety information system.

SECTION 5362. Arkansas Code § 11-9-409(b)(4) and (5), concerning safety and health loss control consultative services, are amended to read as follows:

<< AR ST § 11-9-409 >>

(4) In cooperation with and with the assistance of the Department of Labor **and Licensing** and the State Insurance Department, the division is authorized, empowered, and directed to obtain, from any state agency, data and statistics, including those compiled for the purpose of rate making.

(5) The division shall consult the Department of Labor **and Licensing** and any other affected state agencies in the design of data information and retrieval systems that will accomplish the mutual purposes of those agencies and of the division.

SECTION 5363. Arkansas Code § 11-9-409(c)(1)(A), concerning safety and health loss control consultative services, is amended to read as follows:

<< AR ST § 11-9-409 >>

(1)(A) In cooperation with and with the assistance of the Department of Labor **and Licensing** and the State Insurance Department, the division shall develop a program, including injury frequency, to identify extra-hazardous employers. The term "extra-hazardous employer" includes an employer whose injury frequencies substantially exceed those that may reasonably be expected in that employer's business or industry, an employer whose experience modifier is identified by the commission as too high, and such other employers as may, following a public hearing, be identified as extra-hazardous.

SECTION 5364. Arkansas Code § 11-9-409(c)(2)(A), concerning safety and health loss control consultative services, is amended to read as follows:

<< AR ST § 11-9-409 >>

(2)(A) An employer who receives notification under subdivision (c)(1)(B) of this section must obtain a safety consultation within thirty (30) days from the Department of Labor **and Licensing**, the employer's insurance carrier, or another professional source approved by the division for that purpose.

SECTION 5365. Arkansas Code § 11-9-409(d)(4), concerning safety and health loss control consultative services, is amended to read as follows:

<< AR ST § 11-9-409 >>

(4) In cooperation with and with the assistance of the Department of Labor **and Licensing** and the State Insurance Department, the division shall conduct inspections to determine the adequacy of the accident prevention services required by subdivision (d)(1) of this section at least every two (2) years for each insurance company writing workers' compensation insurance in Arkansas.

SECTION 5366. Arkansas Code § 11-9-503(a)(1), resulting from Initiated Act 4 of 1948 and concerning a violation of safety provisions, is amended to read as follows:

<< AR ST § 11-9-503 >>

(a)(1) Notwithstanding any other definition of extra-hazardous employer as provided by § 11-9-409(c), any employer who fails to utilize the consultative safety services available through the ~~Department~~ **Division** of Labor, its own insurance carrier, or a private safety consultant shall be identified as an extra-hazardous employer if it is established by a preponderance of the evidence that an injury or death is caused in substantial part by the failure of the employer to comply with any Arkansas statute or official regulation pertaining to the health or safety of employees or fails to follow safety consultant recommendations.

SECTION 5367. The introductory language of Arkansas Code § 11-11-101(a), concerning recruitment of labor by foreign labor agents, is amended to read as follows:

<< AR ST § 11-11-101 >>

(a) No foreign labor agent, labor bureau or employment agency, or any other person shall enter this state and attempt to hire, induce, or take from this state any labor, singularly or in groups, for any purpose, whether or not a fee or charge is extracted from the worker, without first applying to the Director of the ~~Department~~ **Division** of Labor for a license to do so and filing with the director:

SECTION 5368. Arkansas Code § 11-11-202(3) and (4), concerning definitions under the laws governing private employment agencies, are repealed.

<< AR ST § 11-11-202 >>

(3) "~~Department~~" means the ~~Department~~ of Labor;

(4) "~~Director~~" means the ~~Director~~ of the ~~Department~~ of Labor;

SECTION 5369. Arkansas Code § 11-11-203(a), concerning penalties under the laws governing private employment agencies, is amended to read as follows:

<< AR ST § 11-11-203 >>

(a) The Director of the ~~Department~~ **Division** of Labor shall have authority to impose a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500) for violation of the provisions of this subchapter by an employment agency or its employees or agents.

SECTION 5370. Arkansas Code § 11-11-204 is amended to read as follows:

<< AR ST § 11-11-204 >>

11-11-204. Director and ~~department~~ **division — Powers and duties.**

(a) It shall be the duty of the ~~Department~~ **Division** of Labor, and it shall have the power, jurisdiction, and authority to administer and enforce the provisions of this subchapter.

(b) The Director of the ~~Department~~ **Division** of Labor shall have the power, jurisdiction, and authority to issue licenses to employment agencies, agency managers, and counselors and to refuse to issue, revoke, or suspend the licenses when, after due investigation, and in compliance with the procedures set forth in §§ 11-11-221 and 11-11-222, the director finds that the applicant is for good and sufficient cause unfit to be an employment agent, agency manager, or counselor within the meaning of this subchapter or any rules, regulations, or orders lawfully promulgated under this subchapter.

(c)(1) Complaints against any person, employment agent, agency manager, or counselor may be made to the ~~department~~ **division** orally or in writing.

(2) The director shall have the power to compel attendance of witnesses by issuance of subpoenas, administer oaths, direct production of documents and records, and direct taking of testimony and evidence concerning all matters within the jurisdiction of the ~~department~~ **division**.

(3) The director may order testimony to be taken by deposition in any proceeding pending before the ~~department~~ **division** at any stage of the proceeding.

(4) The director or his or her duly authorized agent shall at all reasonable times have access to, for the purpose of examination and copying, the books, records, papers, and documents of any person being investigated or proceeded against under the provisions of this subchapter, so long as the books, records, papers, or documents sought to be inspected or copied are reasonably related to the investigation or proceeding being conducted by the director.

(5) The director or his or her authorized agent shall, upon application of any party to proceedings before the director, issue to the party subpoenas requiring the attendance and testimony of witnesses or the production of any books, records, papers, or documents reasonably related to issues involved in proceedings before the director or an investigation conducted by the director.

(6) If any person in proceedings before the director or in investigations conducted by the director disobeys or resists any lawful order or process issued by the director or his or her authorized agents, or fails to produce, after being lawfully directed to do so, any book, paper, record, or document, or refuses to appear and testify after being subpoenaed to do so, the director shall certify the facts to any court of competent jurisdiction in the state or to the Pulaski County Circuit Court.

(7) The court shall have authority to conduct hearings and punish any person for failure or refusal to testify or produce books, papers, documents, or records subpoenaed or ordered by the director as though the conduct constituted contempt of court.

(8) Witnesses summoned by the director or his or her authorized agent shall be paid the same fees and mileage paid to witnesses in the courts of this state.

(d)(1) The director may prescribe such rules and regulations for the conduct of the business of private employment agencies as necessary to implement this subchapter.

(2) These rules shall have the force and effect of law and shall be enforced by the director in the same manner as the provisions of this subchapter.

(3) Adoption of rules and regulations pursuant to this subsection shall be carried out in compliance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e) The ~~department~~ **division** shall have authority to investigate employment agents, agency managers, and counselors. The ~~department~~ **division** shall have the right to examine records required by law to be kept and maintained by employment agents, agency managers, and counselors and to examine the offices where the business is or shall be conducted by them.

(f) The ~~department~~ **division** may seek to recover in a court of competent jurisdiction fees charged or collected in violation of this subchapter.

SECTION 5371. Arkansas Code § 11-11-208(a), concerning penalties for a violation of provisions requiring licenses for employment offices and agencies, is amended to read as follows:

<< AR ST § 11-11-208 >>

(a) No person shall engage in the business of or act as an employment agent, agency manager, or counselor unless he or she first obtains a license from the ~~Department~~ **Division** of Labor.

SECTION 5372. Arkansas Code § 11-11-209(a), concerning the certificate of exemption required for certain organizations, is amended to read as follows:

<< AR ST § 11-11-209 >>

(a) Bona fide nursing schools, nurses' registries, management consulting firms, business schools, vocational schools whose primary function and purpose is training and education, and resume services shall obtain from the Director of the ~~Department~~ **Division** of Labor a certificate of exemption from the requirements of this subchapter.

SECTION 5373. Arkansas Code § 11-11-210(b)(1), concerning the qualifications and application for an employment counselor's license, is amended to read as follows:

<< AR ST § 11-11-210 >>

(b)(1) Every applicant for an initial license for employment counselor shall file with the ~~Department~~ **Division** of Labor a written application on a form prescribed and furnished by the Director of the ~~Department~~ **Division** of Labor.

SECTION 5374. Arkansas Code § 11-11-211(a)(5), concerning the qualifications and application for an agency manager license, is amended to read as follows:

<< AR ST § 11-11-211 >>

(5) A person who has completed the twelfth grade, except that the Director of the ~~Department~~ **Division** of Labor may establish proof necessary to him or her that the applicant is possessed of a twelfth-grade education in terms of intellectual competency, judgment, and achievement; and

SECTION 5375. Arkansas Code § 11-11-211(b)(1), concerning the qualifications and application for an agency manager license, is amended to read as follows:

<< AR ST § 11-11-211 >>

(b)(1) Every applicant for an initial license for agency manager shall file with the ~~Department~~ **Division** of Labor a written application on a form prescribed and furnished by the director.

SECTION 5376. Arkansas Code § 11-11-212(a)(5), concerning the qualifications and application to hold an employment agency license, is amended to read as follows:

<< AR ST § 11-11-212 >>

(5) A person who has completed the twelfth grade, except that the Director of the ~~Department~~ **Division** of Labor may establish proof necessary to him or her that the applicant is possessed of a twelfth-grade education in terms of intellectual competency, judgment, and achievement; and

SECTION 5377. Arkansas Code § 11-11-213(a)(2), concerning the bond required for an employment agency license, is amended to read as follows:

<< AR ST § 11-11-213 >>

(2) The terms and conditions of the bond shall be approved by the Director of the ~~Department~~ **Division** of Labor.

SECTION 5378. Arkansas Code § 11-11-213(d)(1), concerning the bond required for an employment agency license, is amended to read as follows:

<< AR ST § 11-11-213 >>

(d)(1) If any licensee fails to file a new bond with the ~~Department~~ **Division** of Labor within thirty (30) days after notice of cancellation by the surety of the bond required by this section, the license issued to the principal under the bond is suspended until such time as a new surety bond is filed with and approved by the director.

SECTION 5379. Arkansas Code § 11-11-214(a), concerning the investigation of an applicant's license, is amended to read as follows:

<< AR ST § 11-11-214 >>

(a) Upon filing of an application for a license as provided in this subchapter, the Director of the ~~Department~~ **Division** of Labor shall cause an investigation to be made regarding the character, business integrity, and financial responsibility of the license applicant.

SECTION 5380. Arkansas Code § 11-11-215(b), concerning the change of an employment agency license, is amended to read as follows:

<< AR ST § 11-11-215 >>

(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 5381. Arkansas Code § 11-11-215(d), concerning the change of an employment agency license, is amended to read as follows:

<< AR ST § 11-11-215 >>

(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 5382. Arkansas Code § 11-11-216(a)(1)(A), concerning the examination for a license, is amended to read as follows:

<< AR ST § 11-11-216 >>

(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 5383. Arkansas Code § 11-11-216(b), concerning the timing of examinations, is amended to read as follows:

<< AR ST § 11-11-216 >>

(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 5384. Arkansas Code § 11-11-216(c)(2), concerning the examination fee, is amended to read as follows:

<< AR ST § 11-11-216 >>

(2) The examination fee shall be retained by the ~~department~~ **division**, whether or not the applicant successfully completes the examination.

SECTION 5385. The introductory language of Arkansas Code § 11-11-218(a)(1), concerning temporary licenses of private employment agencies, is amended to read as follows:

<< AR ST § 11-11-218 >>

(a)(1) The Director of the ~~Department~~ **Division** of Labor shall have authority to issue a temporary license for operation of a private employment agency, which shall be valid for no more than ninety (90) days, upon submission by the applicant for the license of:

SECTION 5386. Arkansas Code § 11-11-219(b), concerning renewal of licenses, is amended to read as follows:

<< AR ST § 11-11-219 >>

(b) Applications for renewal of all licenses provided by this subchapter must be filed with the Director of the ~~Department~~ **Division** of Labor no later than thirty (30) days prior to expiration of the license.

SECTION 5387. Arkansas Code § 11-11-220 is amended to read as follows:

<< AR ST § 11-11-220 >>

11-11-220. Cessation of business by licensee.

(a)(1) If an employment agent ceases business operations, the agent shall, as soon as reasonably possible, notify the ~~Department~~ **Division** of Labor and shall deliver or forward by mail the agent's license to the ~~department~~ **division**. Failure to give notice, or failure to deliver such employment agent's license, shall be a violation of § 11-11-208.

(2)(A) When one (1) or more individuals, on the basis of whose qualifications an agency license has been obtained, ceases to be connected with the licensed business for any reason whatsoever, the agency business may be carried on for a temporary period not to exceed thirty (30) days, under such terms and conditions as the ~~Department~~ **Division** of Labor shall provide by regulation for the orderly closing of the business or the replacement and qualification of a new member, partner, or corporate officer, director, or shareholder.

(B) The agency's authorization to continue to do business under this subchapter beyond the thirty-day period provided in this subdivision (a)(2) shall be contingent upon approval by the ~~director~~ **Director of the Division of Labor** of any new member, principal, partner, officer, director, or shareholder.

(b)(1) If an agency manager terminates his or her employment with an employment agency by which he or she is employed, the agency shall notify the ~~department~~ **division**, as soon as is reasonably possible, to enable the ~~department~~ **division** to know at all times the identity of the person charged with the general management of each of the agency's office locations.

(2) The employment agency shall also deliver or forward by mail the agency manager's license, together with the reasons why the agency manager has terminated his or her position with the employment agency.

(c) If an employment counselor terminates his or her employment with the employment agency by which he or she is employed, the agency shall, as soon as is reasonably possible, notify the ~~department~~ **division** and deliver or forward by mail the employment counselor's license to the ~~department~~ **division**, together with the reasons for his or her termination.

SECTION 5388. Arkansas Code § 11-11-221(a), concerning the grounds for the issuance, refusal, suspension, or revocation of a license, is amended to read as follows:

<< AR ST § 11-11-221 >>

(a) The Director of the ~~Department~~ **Division** of Labor shall issue a license as an employment agent, agency manager, or counselor to any person who qualifies for the license under the terms of this subchapter.

SECTION 5389. Arkansas Code § 11-11-222(a)(1), concerning the notice and hearing required for the refusal, suspension, or revocation of a license, is amended to read as follows:

<< AR ST § 11-11-222 >>

(a)(1) The Director of the ~~Department~~ **Division** of Labor may not refuse to issue a license or suspend or revoke a license unless it furnishes the person, employment agent, agency manager, or employment counselor with a written statement of the charges against him or her and affords him or her an opportunity to be heard on the charges.

SECTION 5390. Arkansas Code § 11-11-222(c)(1), concerning the notice and hearing required for the refusal, suspension, or revocation of a license, is amended to read as follows:

<< AR ST § 11-11-222 >>

(c)(1) A stenographic record of all proceedings shall be made, and a transcript of the proceedings shall be made if desired by the ~~Department~~ **Division** of Labor or by the accused.

SECTION 5391. Arkansas Code § 11-11-223(a), concerning judicial review of the director's administrative orders, is amended to read as follows:

<< AR ST § 11-11-223 >>

(a) If the Director of the ~~Department~~ **Division** of Labor refuses to grant a license, suspends or revokes a license that has been granted, or imposes an administrative fine as provided in §§ 11-11-213, 11-11-221, and 11-11-222, the person adversely affected or aggrieved by the order of the director issued pursuant to the provisions of §§ 11-11-221 and 11-11-222 may obtain a review of the order.

SECTION 5392. Arkansas Code § 11-11-223(c)(2), concerning judicial review of the director's administrative orders, is amended to read as follows:

<< AR ST § 11-11-223 >>

(2)(A) A copy of the petition shall be forthwith transmitted by the clerk of the court to the ~~Department~~ **Division** of Labor.

(B) Thereupon, the ~~department~~ **division** shall file in the court the record of proceedings before the ~~department~~ **division**.

SECTION 5393. Arkansas Code § 11-11-223(i)(1), concerning judicial review of the director's administrative orders, is amended to read as follows:

<< AR ST § 11-11-223 >>

(i)(1) The ~~department~~ **division** shall certify the record of its proceedings if the party commencing the proceedings shall pay to it the cost of preparing and certifying the records, including the recording and transcribing of all testimony introduced in the proceedings.

SECTION 5394. Arkansas Code § 11-11-225(8)(A), concerning miscellaneous restrictions and requirements for employment agencies, is amended to read as follows:

<< AR ST § 11-11-225 >>

(8)(A) Every employment agency shall inform the public by a conspicuous sign or poster that the employment agency is subject to the requirements of this subchapter, which is administered and enforced by the ~~Department~~ **Division** of Labor.

(B) The ~~department~~ **division** shall prepare and distribute the sign or poster to be used by agencies to comply with this subdivision (8);

SECTION 5395. Arkansas Code § 11-11-227(c)(1), concerning fee restrictions and requirements, is amended to read as follows:

<< AR ST § 11-11-227 >>

(c)(1) When a dispute concerning a fee exists, the ~~Department~~ **Division** of Labor may conduct an investigation to determine all of the facts concerning the dispute. Thereafter, the Director of the ~~Department~~ **Division** of Labor shall issue a decision and order resolving the dispute.

SECTION 5396. Arkansas Code § 11-11-228(a), concerning filing of fee schedules, forms, and contracts required for an employment agency, is amended to read as follows:

<< AR ST § 11-11-228 >>

(a) It shall be the duty of every employment agency to file with the ~~Department~~ **Division** of Labor a schedule of all fees, charges, and commissions that the agency expects to charge and collect for its service, together with a copy of all forms and contracts to be used in dealings with the public in the operation of its business.

SECTION 5397. Arkansas Code § 11-11-229(e), concerning the records to be kept by an employment agency, is amended to read as follows:

<< AR ST § 11-11-229 >>

(e) All of the records listed in this section shall be kept in the employment agency office and shall be open during office hours to inspection by the ~~Department~~ **Division** of Labor and its duly authorized agents.

SECTION 5398. Arkansas Code § 11-12-102(1), concerning the definition of “director” under the laws regulating the employment of children in the entertainment industry, is repealed.

<< AR ST § 11-12-102 >>

(1) “~~Director~~” means the ~~Director of the Department of Labor~~;

SECTION 5399. Arkansas Code § 11-12-104(b)(1), concerning restrictions on employment under the laws regulating the employment of children in the entertainment industry, is amended to read as follows:

<< AR ST § 11-12-104 >>

(1) In a role or in an environment deemed to be hazardous or detrimental to the health, morals, education, or welfare of the child as determined by the Director of the ~~Department~~ **Division** of Labor;

SECTION 5400. Arkansas Code § 11-12-105 is amended to read as follows:

<< AR ST § 11-12-105 >>

11-12-105. Implementation and enforcement.

The Director of the ~~Department~~ **Division** of Labor shall have the authority to:

- (1) Promulgate rules and regulations for the implementation of this chapter;
- (2) Suspend or revoke a permit for the employment of a child in the entertainment industry for cause;
- (3) Enter or authorize his or her representative to enter and inspect any place of employment where children work, rest, or play; and

(4) Otherwise enforce and implement the provisions of this chapter.

SECTION 5401. Arkansas Code § 11-14-112 is amended to read as follows:

<< AR ST § 11-14-112 >>

11-14-112. Rating plans based on drug-free workplace program participation.

The Insurance Commissioner shall approve rating plans for workers' compensation insurance that give specific identifiable consideration in the setting of rates to employers that implement a drug-free workplace program pursuant to rules adopted by the Workers' Health and Safety Division of the Workers' Compensation Commission. The plans must take effect January 1, 2000, must be actuarially sound, and must state the savings anticipated to result from the drug testing. The credit shall be at least five percent (5%) unless the Insurance Commissioner determines that five percent (5%) is actuarially unsound. The Insurance Commissioner is also authorized to develop a schedule of premium credits for workers' compensation insurance for employers who have safety programs that attain certain criteria for safety programs. The Insurance Commissioner shall consult with the Director of the ~~Department~~ **Division** of Labor in setting such criteria.

SECTION 5402. Arkansas Code § 12-13-107(d), concerning the duties of the Director of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 12-13-107 >>

(d) Nothing in this subchapter shall apply to the inspection of boilers, § 20-23-101 et seq., the administration and enforcement of which is now vested in the ~~Department~~ **Division** of Labor.

SECTION 5403. Arkansas Code § 12-19-101(b), concerning the State Task Force for the Prevention on Human Trafficking, is amended to read as follows:

<< AR ST § 12-19-101 >>

(b) If established, representatives on the task force shall be appointed by the Attorney General and may include representatives from:

- (1) The office of the Attorney General;
- (2) The office of the Governor;
- (3) The Department of Labor **and Licensing**;
- (4) The Department of Health;
- (5) The Department of Human Services;
- (6) The Arkansas Association of Chiefs of Police;
- (7) The Arkansas Sheriffs' Association;
- (8) The ~~Department~~ **Division** of Arkansas State Police;
- (9) The Arkansas Prosecuting Attorneys Association;

(10) Local law enforcement; and

(11) Nongovernmental organizations such as:

(A) Those specializing in the problems of human trafficking;

(B) Those representing diverse communities disproportionately affected by human trafficking;

(C) Agencies devoted to child services and runaway services; and

(D) Academic researchers dedicated to the subject of human trafficking.

SECTION 5404. Arkansas Code § 12-19-102(c)(2), concerning posting information about the National Human Trafficking Resource Center Hotline, is amended to read as follows:

<< AR ST § 12-19-102 >>

(2) The Department of Labor **and Licensing**; and

SECTION 5405. Arkansas Code § 15-10-304(b)(2), concerning studying the need for changes in the law, is amended to read as follows:

<< AR ST § 15-10-304 >>

(2) The ~~Department~~ **Division** of Labor, particularly as to hazardous working conditions, if any;

SECTION 5406. Arkansas Code § 17-12-204(b), concerning the annual reporting of the disposition of funds, is amended to read as follows:

<< AR ST § 17-12-204 >>

(b) The board shall file an annual report of its activities with the ~~Governor~~ **Secretary of the Department of Labor and Licensing**, and the report shall include a statement of all receipts and disbursements.

SECTION 5407. Arkansas Code § 17-17-203(a), concerning the employees and supplies of the Auctioneer's Licensing Board, is amended to read as follows:

<< AR ST § 17-17-203 >>

(a) The Auctioneer's Licensing Board shall have full authority to employ, **in consultation with the Secretary of the Department of Labor and Licensing**, and discharge a secretary **Director of the Auctioneer's Licensing Board** who shall **provide administrative services to the board and who shall** also be the treasurer **of the Auctioneer's Licensing Board**, and such other personnel as may be necessary to administer and enforce the provisions of this chapter.

SECTION 5408. Arkansas Code § 17-17-203(b), concerning the supplies of the Auctioneer's Licensing Board, is repealed.

<< AR ST § 17-17-203 >>

~~(b) The board shall obtain office space, furniture, stationery, and other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter.~~

SECTION 5409. Arkansas Code § 17-17-204 is amended to read as follows:

<< AR ST § 17-17-204 >>

17-17-204. Secretary-treasurer ~~Director~~ — Disposition of funds.

(a) All fees, charges, and penalties collected by the Auctioneer's Licensing Board under the provisions of this chapter shall be paid to the ~~Secretary-treasurer~~ **Director** of the Auctioneer's Licensing Board, who shall be the custodian of all funds and shall deposit them into a bank or banks to be designated by the board.

(b) The ~~secretary-treasurer~~ **director** shall execute a bond in an amount determined by the State Risk Manager pursuant to the self-insured fidelity program as authorized in § 21-2-701 et seq.

(c)(1) The ~~secretary-treasurer~~ **director** shall pay funds of the board only on vouchers signed by himself or herself and countersigned by the Chair of the Auctioneer's Licensing Board.

(2) The total expenses for all purposes and obligations of the board shall not exceed the total fees, charges, penalties, and other funds paid to the board under the provisions of this chapter.

(d) The ~~secretary-treasurer~~ **director** shall make semiannual financial reports in detail to the board not later than January 30 and July 30 of each year, which will be kept on permanent file by the board.

SECTION 5410. Arkansas Code § 17-20-201(a)(1), concerning the creation of the State Board of Barber Examiners, is amended to read as follows:

<< AR ST § 17-20-201 >>

(a)(1) There is created a State Board of Barber Examiners, consisting of the Secretary of the ~~State Board of Health~~ **Department of Labor and Licensing, or his or her designee**, who shall be an ex officio member of the board, and five (5) members to be appointed by the Governor for a term of six (6) years.

SECTION 5411. Arkansas Code § 17-20-203 is amended to read as follows:

<< AR ST § 17-20-203 >>

17-20-203. Executive secretary ~~Director of the State Board of Barber Examiners.~~

(a)(1) The State Board of Barber Examiners **in consultation with the Secretary of the Department of Labor and Licensing may employ a** ~~is authorized to employ an executive secretary~~ **Director of the State Board of Barber Examiners**, who shall not be a member of the board and who shall have the responsibility of keeping:

(A) A record of the board's proceedings;

(B) A record of persons registered as barbers ~~and apprentices~~ showing the name, place of business, and residence of each and the date and number of his or her certificate;

(C) A record of all certificates issued, refused, renewed, suspended, or revoked; and

(D) Such other records as may be directed by the board or required by law.

(2) The records shall be open to public inspection at all reasonable times.

(b) The ~~executive secretary~~ **director** shall perform such other functions and duties as may be prescribed by law or directed by the ~~board~~ **secretary**.

(c) The ~~Executive Secretary of the State Board of Barber Examiners~~ **director** shall receive such compensation for his or her services as may be prescribed by the ~~board~~ **secretary** within the limitations of the biennial appropriation therefor made by the General Assembly.

SECTION 5412. Arkansas Code § 17-20-204 is amended to read as follows:

<< AR ST § 17-20-204 >>

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 5413. Arkansas Code § 17-20-208(b)(1), concerning the fees of the State Board of Barber Examiners, is amended to read as follows:

<< AR ST § 17-20-208 >>

(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 5414. Arkansas Code § 17-20-209 is amended to read as follows:

<< AR ST § 17-20-209 >>

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.

(c) All funds so paid to the Treasurer of State shall remain and be a separate and permanent fund for the maintenance of the board and the administration of this chapter.

SECTION 5415. Arkansas Code § 17-22-203 is amended to read as follows:

<< AR ST § 17-22-203 >>

17-22-203. Secretary Director of the State Athletic Commission.

(a) The State Athletic Commission ~~in consultation with the Secretary of the Department of Labor and Licensing shall have authority to select~~ **may employ** a secretary **Director of the State Athletic Commission** and fix the salary thereof at a sum not to exceed the maximum annual salary prescribed for such a position in the biennial appropriation for the ~~commission~~ **Department of Labor and Licensing**.

(b) The secretary **director** shall:

- (1) Keep in the office of the commission a full, complete, and up-to-date record of all the proceedings of the commission;
- (2) Keep an up-to-date account of all money received by him or her on behalf of the commission; and
- (3) Perform such other duties as shall be prescribed by the ~~commission~~ **secretary**.

SECTION 5416. Arkansas Code § 17-22-209 is repealed.

<< Repealed: AR ST § 17-22-209 >>

~~17-22-209. Transfer of the State Athletic Commission:~~

~~(a)(1) Effective July 1, 2013, the State Athletic Commission is transferred to the Department of Health and shall be administered by the Director of the Department of Health.~~

~~(2) All authority, powers, duties, functions, records, authorized positions, property, unexpended balances of appropriations, allocations, or other funds of the commission are transferred to the department.~~

~~(b) In order to protect the commission, to allow for continuation of necessary procedures, and to provide for a smooth transition to the department, the director may not realign the functions and records of the commission before July 1, 2014.~~

SECTION 5417. Arkansas Code § 17-25-204 is amended to read as follows:

<< AR ST § 17-25-204 >>

17-25-204. Employees.

The Contractors Licensing Board **in consultation with the Secretary of the Department of Labor and Licensing may** shall employ a chief administrative employee, also known as administrator, who shall possess such qualifications as may be determined by the ~~board~~ **Contractors Licensing Board** and who shall serve at the pleasure of the board. In addition, the board may employ such additional professional and clerical employees as may be necessary for the operation of the board and its various functions and pay salaries thereto as may be authorized by law.

SECTION 5418. Arkansas Code § 17-25-206(e), concerning the records and reports of the Contractors Licensing Board, is amended to read as follows:

<< AR ST § 17-25-206 >>

(e) On or before August 1 of each year, the board shall submit to the ~~Governor~~ **Secretary of the Department of Labor and Licensing** a report of its transactions for the preceding year and shall file with the Secretary of State a copy of the report, together with a complete statement of receipts and expenditures of the board attested by the affidavit of the Chair of the Contractors Licensing Board and ~~secretary~~ **Secretary of the Contractors Licensing Board** and a copy of the roster of licensed contractors.

SECTION 5419. Arkansas Code § 17-28-103 is amended to read as follows:

<< AR ST § 17-28-103 >>

17-28-103. Disposition of funds.

All funds received by the Board of Electrical Examiners of the State of Arkansas under the provisions of this chapter shall be deposited as special revenues into the State Treasury to the credit of the Department of Labor **and Licensing** Special Fund, there to be used by the ~~Department~~ **Division** of Labor in carrying out the functions, powers, and duties as set out in this chapter and to defray the costs of the maintenance, operation, and improvements required by the ~~department~~ **division** in carrying out the functions, powers, and duties otherwise imposed by law on the ~~department~~ **division** or the Director of the ~~Department~~ **Division** of Labor.

SECTION 5420. The introductory language of Arkansas Code § 17-28-201(b), concerning the creation of the Board of Electrical Examiners of the State of Arkansas, is amended to read as follows:

<< AR ST § 17-28-201 >>

(b) The board shall consist of the ~~Director~~ **Secretary** of the Department of Labor **and Licensing** or his or her authorized representative and eight (8) other members who shall be residents of this state appointed by the Governor with the advice and consent of the Senate:

SECTION 5421. Arkansas Code § 17-28-202(b), concerning the duties of the Board of Electrical Examiners of the State of Arkansas, is amended to read as follows:

<< AR ST § 17-28-202 >>

(b)(1) It shall be the duty of the Department of Labor **and Licensing** to administer and enforce the provisions of this chapter.

(2) For the enforcement of this chapter, the ~~Director~~ **Secretary** of the Department of Labor **and Licensing** or his or her designated employees shall have the authority to enter, during normal business hours, upon any private or public premises with right of access, ingress, and egress for the purpose of ascertaining whether a person has performed electrical work or installed or repaired electrical facilities in accordance with this chapter, the Arkansas Electrical Code Authority Act, § 20-31-101 et seq., and the regulations and standards adopted pursuant thereto.

SECTION 5422. The introductory language of Arkansas Code § 17-28-301(d)(2), concerning the issuance and renewal of an electrician's license, is amended to read as follows:

<< AR ST § 17-28-301 >>

(2) The Director of the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** may renew a temporary license as a master electrician or journeyman electrician issued by the board for more than one (1) additional period of six (6) months, if:

SECTION 5423. Arkansas Code § 17-28-309 is amended to read as follows:

<< AR ST § 17-28-309 >>

17-28-309. Penalties.

(a) The Director of the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** is authorized to petition any court of competent jurisdiction to enjoin or restrain any person who performs electrical work without a license or who otherwise violates the provisions of this chapter.

(b)(1) A civil penalty may be assessed against any person, firm, or corporation by the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** and subject to appeal and hearing before the Board of Electrical Examiners of the State of Arkansas according to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., if it is determined that the person, firm, or corporation has violated any:

- (A) Provision of this chapter;
- (B) Provision in the Arkansas Electrical Code Authority Act, § 20-31-101 et seq.;
- (C) Rule, regulation, or order issued or promulgated by the board; or
- (D) Condition of a license, certificate, or registration issued by the board.

(2) For each violation, the penalty shall not exceed the following:

- (A) Two hundred fifty dollars (\$250) for a first offense;
- (B) Seven hundred fifty dollars (\$750) for a second offense; or
- (C) One thousand dollars (\$1000) for a third offense.

(3) Each day of a continuing violation is a separate violation for purposes of penalty assessment.

(4) Assessment of a civil penalty by the board shall be made no later than two (2) years after the date of the occurrence of the violation.

(5) If any person, firm, or corporation against whom a civil penalty has been imposed fails to pay the penalty within sixty (60) days of the board's decision, the director may file an action in a court of competent jurisdiction to collect the civil penalty without paying costs or giving bond for costs.

(6) Any penalties collected under this section shall be deposited as special revenues into the State Treasury to the credit of the Department of Labor **and Licensing** Special Fund, there to be used by the Department of Labor **and Licensing** in carrying out the functions, powers, and duties of this chapter.

SECTION 5424. Arkansas Code § 17–30–202 is amended to read as follows:

<< AR ST § 17–30–202 >>

17–30–202. Officers and employees Director of State Board of Licensure for Professional Engineers and Professional Surveyors.

The State Board of Licensure for Professional Engineers and Professional Surveyors shall:

- (1) Select its own officers; and
- (2) Have the power **in consultation with the Secretary of the Department of Labor and Licensing** ~~to appoint an executive director~~ **to employ a Director of the State Board of Licensure for Professional Engineers and Professional Surveyors** who shall serve as secretary-treasurer of the board.

SECTION 5425. Arkansas Code § 17–30–205(c), concerning the duty of the Attorney General to the State Board of Licensure for Professional Engineers and Professional Surveyors, is amended to read as follows:

<< AR ST § 17–30–205 >>

(c) The board may employ counsel and necessary assistance to aid in the enforcement of this chapter **or request assistance from the Department of Labor and Licensing**, and the compensation and expenses shall be paid from the funds of the board.

SECTION 5426. Arkansas Code § 17–32–201(h), concerning the creation, members, and compensation of the State Board of Registration for Professional Geologists, is amended to read as follows:

<< AR ST § 17–32–201 >>

(h) The members of the board may receive expense reimbursement in accordance with § 25–16–901 et seq. Board members, ~~except the Secretary-treasurer of the State Board of Registration for Professional Geologists,~~ shall serve without compensation.

SECTION 5427. Arkansas Code § 17–32–207(b), concerning the official records and registers of the State Board of Registration for Professional Geologists, is amended to read as follows:

<< AR ST § 17–32–207 >>

(b) All official records of the board, or affidavits by the ~~Secretary-treasurer~~ **Director** of the State Board of Registration for Professional Geologists as to the content of such records, shall be prima facie evidence of all matters required to be kept therein.

SECTION 5428. Arkansas Code § 17–32–207(c)(1), concerning the official records and registers of the State Board of Registration for Professional Geologists, is amended to read as follows:

<< AR ST § 17–32–207 >>

(c)(1) A complete roster showing the names, the classification, which will be geologist, specialty, or geologist-in-training, and the last known address of the registered geologists or certified geologists-in-training shall be published by the ~~secretary-treasurer~~ **director** one (1) time each year or at such intervals as established by board regulations.

SECTION 5429. Arkansas Code § 17-32-207(d), concerning the official records and registers of the State Board of Registration for Professional Geologists, is amended to read as follows:

<< AR ST § 17-32-207 >>

(d) At the end of the fiscal year, the board shall submit to the ~~Governor~~ **Secretary of the Department of Labor and Licensing** and the General Assembly a complete statement of the receipts and expenditures of the board.

SECTION 5430. Arkansas Code § 17-32-208 is amended to read as follows:

<< AR ST § 17-32-208 >>

17-32-208. ~~Secretary-treasurer, assistants~~ Director of the State Board of Registration for Professional Geologists — Indebtedness.

(a)(1) The ~~Secretary-treasurer~~ **Director** of the State Board of Registration for Professional Geologists shall receive and account for all moneys received in accordance with state law and the regulations of the State Board of Registration for Professional Geologists.

(2) These moneys shall be deposited into a financial institution located in this state and shall be disbursed only by the ~~secretary-treasurer~~ **director**.

(b) The ~~secretary-treasurer~~ **director** shall receive such salary as the board **in consultation with Secretary of the Department of Labor and Licensing** determines within the limits set forth by the General Assembly.

(c) The ~~board~~ **Department of Labor and Licensing** shall employ assistants required to properly perform its **the board's** work and shall make expenditures from this account for any purpose that, in the opinion of the board, is reasonably necessary to perform its duties under law and its rules and regulations.

(d) The board shall have no authority to incur indebtedness.

SECTION 5431. Arkansas Code § 17-33-201(a)(1), concerning the creation and members of the HVACR Licensing Board, is amended to read as follows:

<< AR ST § 17-33-201 >>

(1) The secretary of the board shall be a representative of the Department of Health **Labor and Licensing**;

SECTION 5432. Arkansas Code § 17-33-201(d), concerning the creation and members of the HVACR Licensing Board, is amended to read as follows:

<< AR ST § 17-33-201 >>

(d) The secretary of the board, who shall be an employee of the Department of Health **Labor and Licensing**, shall serve at the pleasure of the Governor, and all other members shall serve four-year terms.

SECTION 5433. Arkansas Code § 17-33-202(3), concerning the powers and duties of the HVACR Licensing Board, is amended to read as follows:

<< AR ST § 17-33-202 >>

(3) Assist and advise the Department of Health **Labor and Licensing** on all matters related to the licensing of HVACR maintenance work;

SECTION 5434. Arkansas Code § 17-33-205(a)(2)(A), concerning the disposition of fees and payments collected by the HVACR Licensing Board, is amended to read as follows:

<< AR ST § 17-33-205 >>

(2)(A) All funds deposited into the HVACR Licensing Fund shall be used for the maintenance, operation, and improvement of the HVACR Licensing and Inspection Program of the Department of Health **Labor and Licensing**.

SECTION 5435. Arkansas Code § 17-33-205(a)(3), concerning the disposition of fees and payments collected by the HVACR Licensing Board, is amended to read as follows:

<< AR ST § 17-33-205 >>

(3) Subject to such rules and regulations as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the Department of Health **Labor and Licensing** is hereby authorized to transfer all unexpended funds relative to the program that pertain to fees collected, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

SECTION 5436. Arkansas Code § 17-33-306 is amended to read as follows:

<< AR ST § 17-33-306 >>

17-33-306. Expiration and renewal.

All licenses or registrations issued under this chapter shall expire one (1) year after the date of issuance or at a time specified by the HVACR Licensing Board. To renew a license or registration, the licensee must submit to the Department of Health **Labor and Licensing** before the expiration date on a form prescribed by the department the appropriate license or registration fees required by this chapter.

SECTION 5437. Arkansas Code § 17-52-306(15), concerning the powers and duties of the Arkansas Home Inspector Registration Board, is amended to read as follows:

<< AR ST § 17-52-306 >>

(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 5438. Arkansas Code § 17-52-311 is amended to read as follows:

<< AR ST § 17-52-311 >>

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 5439. Arkansas Code § 17-52-312(d), concerning the Arkansas Home Inspectors Registration Fund, is amended to read as follows:

<< AR ST § 17-52-312 >>

(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 dollars (\$25.00) for processing registration applications and renewals until this process is transferred to the Arkansas Home Inspector Registration Board.

SECTION 5440. Arkansas Code § 17-52-316(a)(2), concerning the fees and reimbursements by the Arkansas Home Inspector Registration Board, is amended to read as follows:

<< AR ST § 17-52-316 >>

(2) ~~Within forty-five (45) days of the enactment of this section, the~~ **The** board shall notify the Secretary of State **the Department of Labor and Licensing** of the registration fee for the next year and by June 1 every year thereafter until transferred to the board.

SECTION 5441. Arkansas Code § 17-55-101(c)(2)(C)(iii), concerning the licensure of electrical inspectors, is amended to read as follows:

<< AR ST § 17-55-101 >>

(iii) The Department of Labor **Division of Occupational and Professional Licensing Boards and Commissions** may conduct or sponsor continuing education classes for electrical inspectors.

SECTION 5442. Arkansas Code § 17-55-101(d)(2)(A), concerning the licensure of electrical inspectors, is amended to read as follows:

<< AR ST § 17-55-101 >>

(2)(A) A civil penalty may be assessed against an electrical inspector by the department **Division of Occupational and Professional Licensing Boards and Commissions** and subject to appeal and hearing before the board according to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., if it is determined that the electrical inspector has violated a:

- (i) Provision of this chapter;
- (ii) Rule, regulation, or order issued or promulgated by the board; or
- (iii) Condition of a license issued by the board.

SECTION 5443. Arkansas Code § 17-55-101(d)(2)(E) and (F), concerning the licensure of electrical inspectors, are amended to read as follows:

<< AR ST § 17-55-101 >>

(E) If an electrical inspector against whom a civil penalty has been imposed fails to pay the penalty within sixty (60) days of the board's decision, the Director of the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** may file an action in a court of competent jurisdiction to collect the civil penalty without paying costs or giving bond for costs.

(F) Any penalties collected under this section shall be deposited as special revenues into the State Treasury to the credit of the Department of Labor **and Licensing** Special Fund, there to be used by the department **Department of Labor and Licensing** in carrying out the functions, powers, and duties of this chapter.

SECTION 5444. Arkansas Code § 17-55-104 is amended to read as follows:

<< AR ST § 17-55-104 >>

17-55-104. Disposition of funds.

All funds received by the Board of Electrical Examiners of the State of Arkansas under this chapter shall be deposited as special revenues into the State Treasury to the credit of the Department of Labor **and Licensing** Special Fund, there to be used by the Department of Labor **and Licensing** in carrying out the functions, powers, and duties as set out in this chapter, § 17-28-101 et seq., and the Arkansas Electrical Code Authority Act, § 20-31-101 et seq., and to defray the costs of the maintenance, operation, and improvements required by the department in carrying out the functions, powers, and duties otherwise imposed by law on the ~~Director~~ **Secretary** of the Department of Labor **and Licensing**.

SECTION 5445. Arkansas Code § 17-55-105(a), concerning the authority to charge fees for continuing education, is amended to read as follows:

<< AR ST § 17-55-105 >>

(a) The Department of Labor **and Licensing** may charge fees for continuing education classes that it conducts or sponsors for electrical inspectors.

SECTION 5446. Arkansas Code § 17-56-103 is amended to read as follows:

<< AR ST § 17-56-103 >>

17-56-103. Administration.

The ~~Arkansas Commission on Law Enforcement Standards and Training~~ **Department of Labor and Licensing** shall administer the provisions of this chapter.

SECTION 5447. Arkansas Code § 19-5-1211 is amended to read as follows:

<< AR ST § 19-5-1211 >>

19-5-1211. Department of Labor and Licensing Special Fund.

(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 fund to be known as the “Department of Labor **and Licensing** Special Fund”.

(b) The Department of Labor **and Licensing** Special Fund shall consist of:

(1) Those special revenues set out in § 19-6-301(25), (36), (72), (112), (158), (180), and (251); and

(2) The fee, penalty, and assessment income and all other income, the disposition of which is not otherwise provided by law, of the Department of Labor **and Licensing**.

(c) The Department of Labor **and Licensing** Special Fund shall be used for the maintenance, operation, and improvements required by the department in carrying out the special revenue programs enumerated in subsection (b) of this section, and to defray the costs of the maintenance, operation, and improvements required by the department or the ~~Director~~ **Secretary** of the Department of Labor **and Licensing** in carrying out the functions, powers, and duties imposed by law on the department or the ~~director~~ **secretary**.

(d) The ~~director~~ **secretary**, with the approval of the Chief Fiscal Officer of the State, is authorized to transfer funds from the Department of Labor **and Licensing** Special Fund to the Department of Labor **and Licensing** Fund Account.

SECTION 5448. Arkansas Code § 20-20-303(3), concerning hand-harvesting by children, is amended to read as follows:

<< AR ST § 20-20-303 >>

(3) An employment certificate has been obtained from the Director of the ~~Department~~ **Division** of Labor pursuant to § 11-6-109;

SECTION 5449. Arkansas Code § 20-22-605(a), concerning the report and investigation of violations of the rules of the Arkansas Fire Protection Licensing Board, is amended to read as follows:

<< AR ST § 20-22-605 >>

(a) The ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** and other state and local agencies and officers may cooperate with and assist the Arkansas Fire Protection Licensing Board in

administering and enforcing this subchapter by reporting to the board any violations of this subchapter or any failure to comply with this subchapter or the policies adopted by the board pursuant to the authority granted in this subchapter.

SECTION 5450. Arkansas Code § 20–22–606(c) and (d), concerning the creation of the Arkansas Fire Protection Licensing Board, are amended to read as follows:

<< AR ST § 20–22–606 >>

(c)(1) The board may expend moneys as necessary **to reimburse the Department of Labor and Licensing** for stationery, office supplies, application forms, equipment, and other materials necessary for the board to carry out its duties.

(2) The expense reimbursement and stipends authorized by § 25–16–901 et seq. and the expense for necessary office supplies, forms, equipment, and other necessary materials shall be paid from the fees and fines collected by the board.

(d)(1) *The board* shall employ an executive director, chief board investigator, and other staff as necessary whose compensation shall be set by the board.

(2) The staff shall be paid from fees and fines collected by the board.

SECTION 5451. Arkansas Code § 20–23–103(a), concerning the enforcement of the laws governing boiler safety, is amended to read as follows:

<< AR ST § 20–23–103 >>

(a) The criminal penalties provided by this chapter shall be enforced by the prosecuting attorney of each judicial district. The administrative penalties provided by this chapter shall be imposed pursuant to regulation of the Director of the ~~Department~~ **Division** of Labor.

SECTION 5452. Arkansas Code § 20–23–104(a), concerning periodic or regular attendance by a boiler operator, is amended to read as follows:

<< AR ST § 20–23–104 >>

(a) All boilers subject to the provisions of this chapter shall be continuously monitored by mechanical and electronic devices approved by the Director of the ~~Department~~ **Division** of Labor. When a plant is in operation or when any public building is occupied, the boilers shall be under regular attendance by a boiler operator unless otherwise exempt.

SECTION 5453. Arkansas Code § 20–23–105(a), concerning the disposition of funds, is amended to read as follows:

<< AR ST § 20–23–105 >>

(a) All money received under this chapter shall be paid to the Treasurer of State, who shall place this money to the credit of the Department of Labor **and Licensing** Special Fund, there to be used by the Department of Labor **and Licensing** in carrying out the functions, powers, and duties as set out in this chapter and to defray the costs of the maintenance, operation, and improvements required by the department in carrying out the functions, powers, and duties otherwise imposed by law on the department or the Director of the ~~Department~~ **Division** of Labor.

SECTION 5454. Arkansas Code § 20-23-202(a)(1), concerning the Chief Inspector of the Boiler Inspection Division, is amended to read as follows:

<< AR ST § 20-23-202 >>

(a)(1) When the office of Chief Inspector of the Boiler Inspection Division becomes vacant, the Director of the ~~Department~~ **Division** of Labor shall employ a citizen of the State of Arkansas to be chief inspector.

SECTION 5455. Arkansas Code § 20-23-203(c)(1), concerning the Chief Inspector of the Boiler Inspection Division's duty to inspect and enforce, is amended to read as follows:

<< AR ST § 20-23-203 >>

(c)(1) The chief inspector shall enforce the laws of the state governing the use of boilers and unfired pressure vessels. He or she shall examine into and report to the Director of the ~~Department~~ **Division** of Labor the causes of boiler explosions which occur within the state.

SECTION 5456. Arkansas Code § 20-23-301(a)(1), concerning the application of regulations and standards and certificates of inspection required for boilers, is amended to read as follows:

<< AR ST § 20-23-301 >>

(a)(1) No owner or user of a boiler or pressure vessel or engineer or fireman in charge of a boiler or pressure vessel shall operate or allow the boiler or pressure vessel to be operated without a certificate of inspection issued by the Director of the ~~Department~~ **Division** of Labor or shall allow a greater pressure in the boiler or pressure vessel than is allowed by the certificate of inspection.

SECTION 5457. Arkansas Code § 20-23-306(a)(1), concerning the issuance of certificates of inspection by the Boiler Inspection Division, is amended to read as follows:

<< AR ST § 20-23-306 >>

(a)(1) Upon receipt by the Boiler Inspection Division of an annual or biennial certificate report of inspection from a state inspector or from an inspector employed by an insurance company that a boiler or pressure vessel is in safe working condition with the required fittings, valves, and appliances properly installed and set, the Director of the ~~Department~~ **Division** of Labor shall issue to the owner of the boiler or pressure vessel a certificate of inspection.

SECTION 5458. Arkansas Code § 20-23-311(b), concerning inspection fees of the Boiler Inspection Division, is amended to read as follows:

<< AR ST § 20-23-311 >>

(b) The rates in subsection (a) of this section may be reduced by the Director of the ~~Department~~ **Division** of Labor at the beginning of any fiscal year if the rates produce a greater amount of revenue than is required to defray the cost of operation of the ~~division~~ **the Boiler Inspection Division**.

SECTION 5459. Arkansas Code § 20-23-312(a), concerning the collection of inspection fees of the Boiler Inspection Division, is amended to read as follows:

<< AR ST § 20-23-312 >>

(a)(1) In addition to other remedies provided for by this chapter, if after the making of any inspection or accrual of any charge or penalty required or authorized by this chapter, the fee, penalty, or charge is not paid within thirty (30) days after demand upon whoever is liable therefor, the Director of the ~~Department~~ **Division** of Labor may employ an attorney, who is empowered without payment of costs or giving of bond for costs to institute suit in the name of the State of Arkansas in any court of competent jurisdiction to collect the fees, penalties, costs, and charges.

(2)(A) The court where suit is brought pursuant to subdivision (a)(1) of this section for collection of fees, penalties, and charges shall, without limitation, based on the actual amount of the judgment award an attorney's fee equal to the actual cost to the ~~Department~~ **Division** of Labor or the Boiler Inspection Division for the regular hourly rate of pay of the attorney multiplied by the actual hours, including, but not limited to, travel time, litigation, and case review.

(B) Furthermore, the court shall award, without limitation, based on the actual amount of the judgment an amount equal to all costs incurred by the ~~department~~ **Division of Labor** or the division, including, but not limited to, travel costs, witness fees, sheriff's service fees, or costs incurred pursuant to the collection of any judgment obtained by the ~~department~~ **Division of Labor** or ~~division~~ **Boiler Inspection Division**.

SECTION 5460. Arkansas Code § 20-23-314(b)-(e), concerning pressure piping inspections by the Boiler Inspection Division, are amended to read as follows

<< AR ST § 20-23-314 >>

(b)(1) Upon completion of the installation of any pressure piping, a final inspection shall be made, and the inspector shall complete a final inspection report on a form approved by the Director of the ~~Department~~ **Division** of Labor.

(2) A copy of the final inspection report shall be filed with the ~~division~~ **Boiler Inspection Division** within thirty (30) days of completion of the installation.

(c) If the report required by subsection (b) of this section is not filed within thirty (30) days after completion of the installation, the ~~division~~ **Boiler Inspection Division** shall designate an inspector in its employ to make the inspection and report required by subsection (b) of this section.

(d) The inspections and reports required by subsections (a) and (b) of this section may be made by an inspector in the employ of the ~~division~~ **Boiler Inspection Division**.

(e) For each inspection made by an inspector employed by the division and required by subsection (a), subsection (b), or subsection (c) of this section, the holder of the installation permit shall pay the division an inspection fee in the amount of four hundred forty dollars (\$440) per day or two hundred twenty dollars (\$220) per half-day, plus expenses and mileage at the rates authorized for employees of the ~~Department~~ **Division** of Labor who furnish their own transportation.

SECTION 5461. Arkansas Code § 20-23-402(c), concerning inspectors employed by insurance companies, is amended to read as follows:

<< AR ST § 20-23-402 >>

(c) Within thirty (30) days following each internal inspection made by its inspectors, each insurance company shall file a copy of the internal inspection report and date of the inspection with the ~~division~~ **Boiler Inspection Division** on forms approved by the ~~Department~~ **Division** of Labor.

SECTION 5462. Arkansas Code § 20–23–404(a)(5), concerning applications for operators by the Boiler Inspection Division, is amended to read as follows:

<< AR ST § 20–23–404 >>

(5) Before the applicant may participate in an examination, he or she shall have had not less than six (6) months of on-the-job training. Proof of this on-the-job training shall be furnished to the ~~Department~~ **Division** of Labor by the employer prior to the examination.

SECTION 5463. Arkansas Code § 20–23–406(a)(1)(B), concerning a certificate of competency and commission and restricted lifetime licenses, is amended to read as follows:

<< AR ST § 20–23–406 >>

(B) The certificate of competency and commission shall be issued upon satisfactory proof of age and upon payment of a fee prescribed by the ~~Department~~ **Division** of Labor.

SECTION 5464. Arkansas Code § 20–23–407(a), concerning owner or user inspection programs for steam boilers or pressure vessels, is amended to read as follows:

<< AR ST § 20–23–407 >>

(a) Any owner or user of a steam boiler or pressure vessel subject to this chapter may perform any inspections required by this chapter on such vessels owned or operated by the owner or user if the owner or user meets the requirements prescribed by regulation of the Director of the ~~Department~~ **Division** of Labor.

SECTION 5465. Arkansas Code § 20–24–101(2), concerning the definition of “authorized representative” under the laws governing the Elevator Safety Board, is amended to read as follows:

<< AR ST § 20–24–101 >>

(2) “Authorized representative” means the building department of cities, towns, or other governmental subdivisions designated by the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** to enforce certain provisions of this chapter;

SECTION 5466. Arkansas Code § 20–24–101(5) and (6), concerning definition of “division” and “director” under the laws governing the Elevator Safety Board, are repealed.

<< AR ST § 20–24–101 >>

(5) “Department” means the Department of Labor;

(6) “Director” means the Director of the Department of Labor;

SECTION 5467. Arkansas Code § 20–24–103(b) and (c), concerning the penalties for violations of the laws governing elevator safety, are amended to read as follows:

<< AR ST § 20–24–103 >>

(b) An action for recovery of the penalties provided by this section shall be instituted by the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** or its authorized representative and shall be in the form of a civil action before a court of competent jurisdiction.

(c) In addition to the penalties in subsection (a) of this section, the Director of the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** may petition a court of competent jurisdiction to enjoin or restrain violations of this chapter or a rule adopted by the board.

SECTION 5468. Arkansas Code § 20–24–104 is amended to read as follows:

<< AR ST § 20–24–104 >>

20–24–104. Enforcement.

(a) Except when otherwise provided, the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** shall have the power, and it shall be its duty, to enforce this chapter and the rules and regulations adopted by the Elevator Safety Board.

(b) In cities, towns, or other governmental subdivisions having a building department with qualified personnel to enforce this chapter or portions thereof, the Director of the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** may delegate the building department as the authorized representative of the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** to enforce and carry out the provisions of §§ 20–24–112 — 20–24–116 or any portion thereof as may be designated by him or her.

SECTION 5469. Arkansas Code § 20–24–105(a), concerning the creation of the Elevator Safety Board, is amended to read as follows:

<< AR ST § 20–24–105 >>

(a) There is created the Elevator Safety Board, consisting of six (6) members, one (1) of whom shall be the ~~Director~~ **Secretary** of the Department of Labor **and Licensing**, who shall serve continuously, and five (5) of whom shall be appointed by the Governor for terms of four (4) years.

SECTION 5470. Arkansas Code § 20–24–105(d) and (e), concerning the creation of the Elevator Safety Board, are amended to read as follows:

<< AR ST § 20–24–105 >>

(d) The board shall meet at the call of the ~~director~~ **secretary** who shall designate in the call the time and place of the meeting.

(e) The members except the ~~director~~ **secretary** may receive expense reimbursement and stipends in accordance with § 25–16–901 et seq.

SECTION 5471. Arkansas Code § 20–24–106(e), concerning the powers and duties of the Elevator Safety Board, is amended to read as follows:

<< AR ST § 20–24–106 >>

(e) It shall also be the duty of the board to hear and decide any appeals from the orders or acts of the Department of Labor **and Licensing** or its authorized representative as provided in § 20–24–119.

SECTION 5472. Arkansas Code § 20–24–107(c)(2)(A), concerning adoption and amendment of rules and regulations of the Elevator Safety Board, is amended to read as follows:

<< AR ST § 20–24–107 >>

(2)(A) Any person engaged in the inspection, alteration, construction, repair, or operation of elevators, dumbwaiters, or escalators, or any owner, insurer, or lessee thereof, may, from time to time, by written petition to the ~~Director~~ **Secretary** of the Department of Labor **and Licensing**, request that any rules and regulations adopted by the board under subsection (a) of this section be amended, or the ~~director~~ **secretary** shall refer the petition to the board for its consideration and recommendation.

SECTION 5473. Arkansas Code § 20–24–108(a)(2)(C)(ii), concerning the qualifications for licenses required by the Elevator Safety Board, is amended to read as follows:

<< AR ST § 20–24–108 >>

(ii) The provision for liability insurance required by subdivision (a)(2)(C)(i) of this section shall not apply to elevator inspectors employed by the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions**; and

SECTION 5474. Arkansas Code § 20–24–109(d)(2), concerning the application and examination for license issuance and renewal, is amended to read as follows:

<< AR ST § 20–24–109 >>

(2) Whenever the board determines that there are not enough licensed elevator mechanics available to perform work necessary for the completion of a project for which the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** has issued a permit under § 20–24–115(d), the board may waive the requirements of this chapter and issue a temporary elevator mechanic license that may be valid for no longer than thirty (30) days.

SECTION 5475. Arkansas Code § 20–24–110(d), concerning prohibited activities of inspectors of the Elevator Safety Board, is amended to read as follows:

<< AR ST § 20–24–110 >>

(d) On or before the last day of January of each year, all licensed elevator inspectors shall file with the Department of Labor **and Licensing** a financial disclosure statement on forms provided by the department and approved by the Elevator Safety Board. Such forms shall include, but not be limited to, the following:

- (1) The name and address of any corporation, firm, or enterprise in which the person has a direct financial interest of a value in excess of one thousand dollars (\$1,000). Policies of insurance issued to himself or herself or his or her spouse are not to be considered a financial interest;
- (2) A list of every office or directorship held by himself or herself or his or her spouse, in any corporation, firm, or enterprise subject to the jurisdiction of the board;
- (3) A list showing the name and address of any person, corporation, firm, or enterprise from which the person received compensation in excess of one thousand five hundred dollars (\$1,500) during the preceding year; and
- (4) A list showing the name and address of any person, corporation, firm, or enterprise from which the persons received compensation in excess of twelve thousand five hundred dollars (\$12,500) during the preceding year.

SECTION 5476. Arkansas Code § 20–24–112(a)(1)(B), concerning testing and inspection required for elevators, is amended to read as follows:

<< AR ST § 20–24–112 >>

(B) The inspections shall be made by a licensed elevator inspector in the employ of the ~~Department of Labor~~ **Division of Occupational and Professional Licensing Boards and Commissions** or its authorized representative;

SECTION 5477. Arkansas Code § 20–24–113(a)(1), concerning the reports of inspection of the Elevator Safety Board, is amended to read as follows:

<< AR ST § 20–24–113 >>

(a)(1) A report of every required inspection or safety test shall be filed with the Department of Labor **and Licensing** or its authorized representative by the inspector making the inspection or witnessing the test on a form approved by the department or its authorized representative within thirty (30) days after the inspection or test has been completed.

SECTION 5478. Arkansas Code § 20–24–114 is amended to read as follows:

<< AR ST § 20–24–114 >>

20–24–114. Additional inspections.

In addition to required inspections, the Department of Labor **and Licensing** or its authorized representative may designate a licensed inspector in its employ to make such additional inspections as may be required to enforce this chapter and the rules adopted by the Elevator Safety Board under § 20–24–107(a) and (b).

SECTION 5479. Arkansas Code § 20–24–115(a)(1), concerning the new construction, relocation, or alteration of elevators, is amended to read as follows:

<< AR ST § 20–24–115 >>

(a)(1) On and after the effective date of rules and regulations adopted by the Elevator Safety Board under § 20–24–107(a) and (b), detailed plans and specifications of the elevator, dumbwaiter, or escalator to be thereafter installed, relocated, or altered shall be submitted by the contractor, or in the absence of an installing contractor, by a person or the owner, to

the Department of Labor **and Licensing**. An application for a construction or alteration permit on forms to be furnished or approved by the department shall be submitted at the same time.

SECTION 5480. Arkansas Code § 20–24–116(a)(1), concerning the operating permits for elevators, is amended to read as follows:

<< AR ST § 20–24–116 >>

(a)(1) Operating permits shall be issued by the Department of Labor **and Licensing** within the time limits specified in this section to the owner or lessee of every new or altered elevator, dumbwaiter, and escalator and of every existing elevator, dumbwaiter, and escalator when the inspection report indicates compliance with the applicable sections of this chapter.

SECTION 5481. Arkansas Code § 20–24–117(a), concerning the fees for elevator installation permits, is amended to read as follows:

<< AR ST § 20–24–117 >>

(a) The following fees shall be paid to the Department of Labor **and Licensing** for each passenger, freight, or one-man elevator or dumbwaiter installation permit:

(1)	Elevators	\$150.00
(2)	Escalators and moving walks	200.00
(3)	Dumbwaiters	100.00
(4)	Wheelchair lifts	100.00
(5)	Workmen's hoists	200.00

SECTION 5482. Arkansas Code § 20–24–119(a), concerning appeals from orders or acts of the Department of Labor, is amended to read as follows:

<< AR ST § 20–24–119 >>

(a) Any person aggrieved by an order or act of the Department of Labor **or Licensing** or its authorized representative under this chapter may, within fifteen (15) days after notice thereof, appeal from the order or act to the Elevator Safety Board, which shall, within thirty (30) days thereafter, hold a hearing of which at least fifteen (15) days' written notice shall be given to all interested parties.

SECTION 5483. Arkansas Code § 20–27–801(b)(1), concerning an exception to leaving the door on automatic locking devices or items, is amended to read as follows:

<< AR ST § 20–27–801 >>

(b)(1) The Labor Safety Administrator of the ~~Department~~ **Division** of Labor or any of his or her deputies or inspectors shall have the right to remove the door hinges or to dismantle, if necessary, any icebox, refrigerator, or other container that has an air-tight door or lid, snaplock, or other locking device that violates this subchapter.

SECTION 5484. Arkansas Code § 20–27–802 is amended to read as follows:

<< AR ST § 20–27–802 >>

20–27–802. Inside door handles required on certain walk-in refrigerators, etc.

The Labor Safety Administrator of the ~~Department~~ **Division** of Labor or any of his or her deputies or inspectors may require the installation of inside door handles on any walk-in refrigerator, icebox, freezer, or door of a cold storage room where in his or her discretion the absence of inside door handles in the freezing unit may endanger the life of any employee or other authorized personnel using the unit.

SECTION 5485. Arkansas Code § 20–27–901(2)(A), concerning the definition of “hazardous locations” under the laws governing safety glazing materials, is amended to read as follows:

<< AR ST § 20–27–901 >>

(2)(A) “Hazardous locations” means those areas in residential, commercial, and public buildings where the use of other than safety glazing materials would constitute a hazard as the Director of the ~~Department~~ **Division** of Labor may determine after notice and hearings as are now required by law.

SECTION 5486. Arkansas Code § 20–27–1102(a), concerning enforcement, administration, and rules regarding blasting, is amended to read as follows:

<< AR ST § 20–27–1102 >>

(a) The Director of the ~~Department~~ **Division** of Labor shall promulgate regulations to establish minimum standards for the qualifications of those individuals performing blasting in Arkansas.

SECTION 5487. Arkansas Code § 20–27–1302(2),¹⁹ concerning the definitions of “division” and “director” under the laws governing blasting, are repealed.

<< AR ST § 20–27–1302 >>

(4) “~~Department~~” means the ~~Department~~ of Labor;

(5) “~~Director~~” means the ~~Director~~ of the ~~Department~~ of Labor;

SECTION 5488. Arkansas Code § 20–27–1303(b)(2)(A), concerning blasting standards, is amended to read as follows:

<< AR ST § 20–27–1303 >>

(2)(A) If necessary to prevent damage, the Director of the ~~Department~~ **Division** of Labor may require lower maximum allowable airblast levels than those specified in subdivision (b)(1) of this section for use in the vicinity of a specific blasting operation.

SECTION 5489. Arkansas Code § 20–27–1305(a)(2), concerning record keeping for mine operators and owners, is amended to read as follows:

<< AR ST § 20-27-1305 >>

(2) Upon request, copies of these records shall be made available to the ~~Department~~ **Division** of Labor for inspection.

SECTION 5490. Arkansas Code § 20-27-1306(b), concerning insurance for blasting operations, is amended to read as follows:

<< AR ST § 20-27-1306 >>

(b) Proof of such coverage shall be made available to the Director of the ~~Department~~ **Division** of Labor or his or her authorized representative upon request.

SECTION 5491. Arkansas Code § 20-27-1307(b), concerning exemptions for owners and operators of mines and quarries, is amended to read as follows:

<< AR ST § 20-27-1307 >>

(b) Notwithstanding subsection (a) of this section, the authority of the Director of the ~~Department~~ **Division** of Labor shall not be restricted with respect to:

- (1) Mines or quarries which were in existence and operation on July 1, 1995, but which change owners or operators after July 1, 1995; or
- (2) New or existing mines or quarries which were not in operation on July 1, 1995.

SECTION 5492. The introductory language of Arkansas Code § 20-27-1308(a), concerning the powers and duties of the Director of the Department of Labor, is amended to read as follows:

<< AR ST § 20-27-1308 >>

(a) In addition to other powers and authority provided by law, the Director of the ~~Department~~ **Division** of Labor or his or her authorized representative shall have the following authority:

SECTION 5493. Arkansas Code § 20-27-1308(c), concerning the powers and duties of the Director of the Department of Labor, is amended to read as follows:

<< AR ST § 20-27-1308 >>

(c) In case of failure of any person to comply with any subpoena lawfully issued under this section or upon the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it shall be the duty of any circuit court or judge thereof, upon application of the ~~Department~~ **Division** of Labor, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a refusal to testify therein.

SECTION 5494. Arkansas Code § 20-27-1309(a) and (b), concerning hearings, orders, and notices conducted by the Director of the Department of Labor, are amended to read as follows:

<< AR ST § 20-27-1309 >>

(a) All hearings conducted by the Director of the Department **Division** of Labor and all orders, notices, and assessments shall conform to the requirements of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) Service of any notice, order, or assessment may be made by delivery to the person to be ordered or notified or by mailing it, postage prepaid, addressed to the person at his or her principal place of business as last of record with the Department **Division** of Labor.

SECTION 5495. Arkansas Code § 20-27-1309(c)(2), concerning hearings, orders, and notices conducted by the Director of the Department of Labor, are amended to read as follows:

<< AR ST § 20-27-1309 >>

(2) A complainant entitled to notice is any person who has made a written complaint within the past three (3) years to the department **division** regarding the blasting operations of the person charged with the violation.

SECTION 5496. Arkansas Code § 20-27-1310 is amended to read as follows:

<< AR ST § 20-27-1310 >>

20-27-1310. Cooperation with State Fire Marshal.

(a) The Director of the Department **Division** of Labor shall consult the State Fire Marshal regarding the adoption of any rules or regulations.

(b) The Department **Division** of Labor and the State Fire Marshal shall cooperate and coordinate their activities in order to avoid duplication of services.

SECTION 5497. Arkansas Code § 20-27-1311(b), concerning orders, remedies and existing rules and regulations, is amended to read as follows:

<< AR ST § 20-27-1311 >>

(b) All orders entered, permits granted, and pending legal proceedings instituted by any person, public or private, relating to subjects embraced within this subchapter shall remain unimpaired and in full force and effect until superseded by actions taken by the Director of the Department **Division** of Labor under this subchapter.

SECTION 5498. Arkansas Code § 20-27-1313(a)(1), concerning the assessment of civil penalties under the Arkansas Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

<< AR ST § 20-27-1313 >>

(a)(1) Any person who violates any provision of this subchapter or who violates any rule, regulation, or order issued under this subchapter may be assessed an administrative civil penalty by the Director of the Department **Division** of Labor in an amount not to exceed ten thousand dollars (\$10,000) per violation.

SECTION 5499. Arkansas Code § 20–27–1313(d)(1), concerning the assessment of civil penalties under the Arkansas Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

<< AR ST § 20–27–1313 >>

(d)(1) Sums collected as reimbursement for expenses, costs, and damages to the ~~Department~~ **Division** of Labor shall be deposited into the operating fund of the ~~department~~ **division**.

SECTION 5500. Arkansas Code § 20–27–1313(e), concerning the assessment of civil penalties under the Arkansas Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

<< AR ST § 20–27–1313 >>

(e) Notice of any assessment by the director shall be served on any person who has made a written complaint within the past three (3) years to the ~~department~~ **division** regarding the blasting operations of the person charged with the violation.

SECTION 5501. Arkansas Code § 20–27–1314 is amended to read as follows:

<< AR ST § 20–27–1314 >>

20–27–1314. Restraint.

In addition to the civil penalty provided in § 20–27–1313, the Director of the ~~Department~~ **Division** of Labor may petition any court of competent jurisdiction without paying costs or giving bond for costs to:

(1)(A) Enjoin or restrain any violation of or compel compliance with this subchapter and any rules, regulations, or orders issued under this subchapter.

(B) In situations in which there is an imminent threat to public or worker safety or to property, the director may seek a temporary restraining order for the cessation of any blasting;

(2) Affirmatively order that such remedial measures be taken as may be necessary or appropriate to implement or effectuate the purposes and intent of this subchapter; and

(3) Recover all costs, expenses, and damages to the ~~Department~~ **Division** of Labor and any other agency or subdivision of the state in enforcing or effectuating this subchapter.

SECTION 5502. Arkansas Code § 20–31–102(2), concerning the definition of “department” under the Arkansas Electrical Code Authority Act, is repealed.

<< AR ST § 20–31–102 >>

(2) ~~“Department” means the Department of Labor;~~

SECTION 5503. Arkansas Code § 20–31–104(f), concerning statewide standards and the enforcement of rules for the Board of Electrical Examiners of the State of Arkansas, is amended to read as follows:

<< AR ST § 20–31–104 >>

(f) It shall be the duty of the ~~Department~~ **Division** of Labor to administer and enforce this chapter.

SECTION 5504. Arkansas Code § 22–9–212(b), concerning public improvements to trench or excavation safety systems, is amended to read as follows:

<< AR ST § 22–9–212 >>

(b) In the event a contractor fails to complete a separate pay item in accordance with the applicable provisions of subsection (a) of this section, the agency, county, municipality, school district, local taxing unit, or improvement district shall declare that the bid fails to comply fully with the provisions of the specifications and bid documents and will be considered invalid as a nonresponsive bid. The owners of the above-stated project shall notify the Safety Division of the ~~Department~~ **Division** of Labor of the award of a contract covered by this section.

SECTION 5505. Arkansas Code § 23–89–502(3), concerning the definition of “department” under the Amusement Ride and Amusement Attraction Safety Insurance Act, are repealed.

<< AR ST § 23–89–502 >>

(3) “~~Department~~” means the ~~Department of Labor~~;

(4) “~~Director~~” means the ~~Director of the Department of Labor~~;

SECTION 5506. Arkansas Code § 23–89–504 is amended to read as follows:

<< AR ST § 23–89–504 >>

23–89–504. Safety inspection and insurance required — Enforcement — Violations.

(a) It is unlawful for any person or entity to operate an amusement attraction or amusement ride unless the person or entity maintains liability insurance in the minimum amount required by this subchapter at all times during the operation of the amusement attraction or amusement ride in the state and unless the person has a current safety inspection report made at the time of set-up of the amusement attraction or amusement ride, but before use by the public.

(b)(1) The Director of the ~~Department~~ **Division** of Labor may conduct examinations and investigations into the affairs of any person or entity subject to the provisions of this subchapter for the purpose of determining compliance with the provisions of this subchapter.

(2) The Director of the ~~Department~~ **Division** of Labor shall administer and enforce the provisions of this subchapter.

(3) The Director of the ~~Department~~ **Division** of Labor shall promulgate regulations for the proper administration and enforcement of this subchapter, including regulations establishing minimum safety requirements for the operation and maintenance of amusement rides and amusement attractions.

(4) The Director of the ~~Department~~ **Division** of Labor shall employ amusement ride inspectors certified by the National Association of Amusement Ride Safety Officials.

(c) If the Director of the ~~Department~~ **Division** of Labor finds that an operator or owner has failed to comply with the provisions of this subchapter, he or she may order the operator or owner to immediately cease operating the amusement attraction or amusement ride and may impose upon the operator or owner an administrative penalty of not more than ten thousand dollars (\$10,000).

(d)(1) If the Director of the ~~Department~~ **Division** of Labor finds that an operator or owner failed to comply with the provisions of this subchapter, he or she shall so inform the prosecuting attorney in whose district any purported violation may have occurred.

(2)(A) Upon conviction, the operator or owner shall be guilty of a Class A misdemeanor.

(B) Upon conviction of a knowing violation, the operator or owner shall be guilty of a Class D felony.

(3) Each day of violation shall constitute a separate offense.

(e) The Director of the ~~Department~~ **Division** of Labor shall have authority to bring a civil action in any court of competent jurisdiction, without payment of costs or giving bond for costs, to recover any administrative penalty imposed pursuant to this subchapter or to recover any delinquent fees owed pursuant to this subchapter.

(f) The Director of the ~~Department~~ **Division** of Labor and his or her deputies, assistants, examiners, and employees and the Director of the ~~Department~~ **Division** of Arkansas State Police and his or her deputies, officers, assistants, and employees and any public law enforcement officer shall not be liable for any damages occurring as a result of the implementation of this subchapter.

SECTION 5507. Arkansas Code § 23–89–505(a), concerning safety inspections, notice, and insurance requirements under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

<< AR ST § 23–89–505 >>

(a) Any person or entity desiring to operate any amusement attraction or amusement ride in this state, other than those specifically exempted in this subchapter, shall as a condition thereof obtain a safety inspection report issued by the owner or operator's liability insurer or an inspector employed by the ~~Department~~ **Division** of Labor prior to commencing operation or opening to the public.

SECTION 5508. Arkansas Code § 23–89–505(c)(1), concerning safety inspections, notice, and insurance requirements under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

<< AR ST § 23–89–505 >>

(c)(1) Any person or entity intending to operate an amusement attraction or amusement ride in this state shall notify the Director of the ~~Department~~ **Division** of Labor of such intent and shall notify the director of the location, dates, and times of intended operation.

SECTION 5509. Arkansas Code § 23–89–506(a)(1), concerning inspections and fees, is amended to read as follows:

<< AR ST § 23–89–506 >>

(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 5510. Arkansas Code § 23–89–506(c)–(e), concerning inspections and fees, are amended to read as follows:

<< AR ST § 23–89–506 >>

(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 5511. Arkansas Code § 23–89–507(b), concerning a change in coverage by an insurance company under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

<< AR ST § 23–89–507 >>

(b) If any insurer insuring an operator shall cancel the coverage of the operator, the insurer shall notify the Director of the ~~Department~~ **Division** of Labor of the cancellation at least ten (10) days before the cancellation is effective.

SECTION 5512. Arkansas Code § 23–89–507(f), concerning a change in coverage by an insurance company under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

<< AR ST § 23–89–507 >>

(f) Any employee or contractor of an insurer inspecting amusement rides in Arkansas shall be registered and certified by the ~~Department~~ **Division** of Labor pursuant to regulation adopted by the director.

SECTION 5513. Arkansas Code § 23–89–508 is amended to read as follows:

<< AR ST § 23–89–508 >>

23–89–508. Rules and regulations.

The Director of the ~~Department~~ **Division** of Labor is authorized to adopt appropriate rules and regulations to carry out the intent and purposes of this subchapter and to assure its efficient and effective enforcement.

SECTION 5514. Arkansas Code § 23–89–509 is amended to read as follows:

<< AR ST § 23-89-509 >>

23-89-509. Cease and desist orders — Notice required.

(a)(1) Upon issuance of cease and desist orders pursuant to § 23-89-504 or § 23-89-507, the Director of the ~~Department~~ **Division** of Labor shall promptly transmit his or her order to the Director of the ~~Department~~ **Division** of Arkansas State Police.

(2) Whenever possible, the Director of the ~~Department~~ **Division** of Labor shall notify any applicable fair boards or sponsoring organizations in the respective districts or counties of this state where the amusement attractions or amusement rides are in operation or are scheduled to be in operation.

(3) The Director of the ~~Department~~ **Division** of Labor shall promptly notify these parties when a cease and desist order has been rescinded upon proof of the operator's compliance with the provisions of this subchapter.

(b) Upon receipt of the Director of the ~~Department~~ **Division** of Labor's order to cease and desist operations pursuant to subsection (a) of this section, the ~~Department~~ **Division** of Arkansas State Police shall promptly serve the order on the operator and order the operator immediately to cease operation of all applicable amusement attractions or amusement rides in operation or scheduled to be in operation in those districts or counties until the cease and desist order has been rescinded.

SECTION 5515. Arkansas Code § 23-89-510 is amended to read as follows:

<< AR ST § 23-89-510 >>

23-89-510. Accidents — Reporting injuries or death — Investigations.

(a) Any mechanical, structural, or electrical defects directly affecting patron safety for which an amusement ride is closed to patron use for a period of time more than three (3) hours must be reported in writing personally or by facsimile by the owner or operator to the ~~Department~~ **Division** of Labor within twenty-four (24) hours after the closing of the amusement ride.

(b)(1) The operator of an amusement ride shall immediately cease to operate any ride involved in a fatality or serious physical injury. The owner or operator shall notify the ~~department~~ **division** of such an accident within four (4) hours of its occurrence by telephone or facsimile. The owner or operator shall file a written accident report personally or by facsimile with the ~~department~~ **division** within twenty-four (24) hours of the accident. Within twenty-four (24) hours after receipt of such a report, the ~~department~~ **division** shall initiate an investigation of the occurrence and an inspection of the ride. The ~~department~~ **division** shall perform the inspection in a manner that proceeds with all practicable speed and minimizes the disruption of the amusement facility at which the amusement ride is located.

(2) Unless authorized in writing by the ~~department~~ **division**, no amusement ride may be operated, moved, altered, repaired, or tampered with, except to protect life, limb, and property following an accident involving a serious injury or death until the ~~department~~ **division** has completed its inspection and investigation.

SECTION 5516. Arkansas Code § 23-89-515(b), concerning nondestructive testing under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

<< AR ST § 23-89-515 >>

(b)(1) If a manufacturer's nondestructive testing standards are unavailable for an amusement ride and the ~~Department~~ **Division** of Labor deems it necessary, the owner shall provide the standards through a professional engineer as defined

in § 17–30–101, an engineering agency, or an individual qualified by training and experience to compile standards based on the ride's specifications and history and using accepted engineering practices.

(2) The professional engineer or other qualified individual shall be approved by the Director of the ~~Department~~ **Division** of Labor.

(3) The amusement ride shall meet the criteria established under this subsection.

SECTION 5517. Arkansas Code § 23–89–516(a), concerning records under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

<< AR ST § 23–89–516 >>

(a) The Director of the ~~Department~~ **Division** of Labor shall keep records and statistics by year of serious injuries and fatalities resulting from amusement ride accidents. Such records and statistics shall specify the year of the accident, type of injury, type of amusement ride or amusement attraction involved, and cause of the accident.

SECTION 5518. Arkansas Code § 23–89–516(b)(2), concerning records under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

<< AR ST § 23–89–516 >>

(2) The latest safety inspection report by the ~~Department~~ **Division** of Labor and by the owner or operator's insurer;

SECTION 5519. Arkansas Code § 23–89–517 is amended to read as follows:

<< AR ST § 23–89–517 >>

23–89–517. Disposition of funds.

All money received under the provisions of this subchapter shall be deposited into the State Treasury to the credit of the Department of Labor **and Licensing** Special Fund.

SECTION 5520. Arkansas Code § 23–89–518(a)(2)(B), concerning the creation of the Amusement Ride Safety Advisory Board, is amended to read as follows:

<< AR ST § 23–89–518 >>

(B) The Director of the ~~Department~~ **Division** of Labor or his or her designee shall be ex officio chair.

SECTION 5521. 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:

<< AR ST § 23–89–518 >>

(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 5522. Arkansas Code § 23–89–518(a)(3)(A), concerning the creation of the Amusement Ride Safety Advisory Board, is amended to read as follows:

<< AR ST § 23–89–518 >>

(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 5523. Arkansas Code § 23–89–518(b), concerning the creation of the Amusement Ride Safety Advisory Board, is amended to read as follows:

<< AR ST § 23–89–518 >>

(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 5524. Arkansas Code § 23–89–518(c), concerning the creation and the duties of Amusement Ride Safety Advisory Board, is amended to read as follows:

<< AR ST § 23–89–518 >>

(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 5525. Arkansas Code § 23–112–202(c)(1), concerning the proceedings and bond of members of the Arkansas Motor Vehicle Commission, is amended to read as follows:

<< AR ST § 23–112–202 >>

(c)(1) The commission shall purchase either a blanket position honesty or faithful performance bond from some surety company authorized to do business in this state. This bond shall be in the penal sum of ten thousand dollars (\$10,000), made payable to the State of Arkansas, conditioned for the honest and faithful performance of the duties of the chair and each member of the commission; **and** the ~~Executive~~ Director of the Arkansas Motor Vehicle Commission, ~~and all other employees of the commission~~, the bond to be approved by the Governor and filed in the office of the Secretary of State.

SECTION 5526. Arkansas Code § 23–112–203 is amended to read as follows:

<< AR ST § 23–112–203 >>

23–112–203. Executive director — Employees — Office Director of Arkansas Motor Vehicle Commission.

(a)(1) The Arkansas Motor Vehicle Commission **in consultation with the Secretary of the Department of Labor and Licensing** shall ~~appoint~~ **employ** a qualified person to serve as executive director thereof ~~Director of the Arkansas Motor~~

Vehicle Commission, to serve at the pleasure of the commission, and shall fix his or her salary and shall define and prescribe the duties **of the director**.

(2) The ~~Executive~~ Director of the Arkansas Motor Vehicle Commission shall be in charge of the ~~commission's~~ office **of the Arkansas Motor Vehicle Commission** and shall devote such time to the duties thereof as may be necessary.

(3) The duties **of the director** shall include, but shall not be limited to, the collection of all fees and charges under the provisions of this chapter, keeping a record of all proceedings of the commission, and keeping an accurate account of all moneys received and disbursed by the commission, all of which records shall be considered as public records.

(b) The commission may employ **in consultation with the secretary** such clerical and professional help and incur such expenses as may be reasonably necessary for the proper discharge of its duties under this chapter.

(c) Except as provided in this chapter, the commission shall maintain its office and transact its business at Little Rock.

SECTION 5527. Arkansas Code Title 25, Chapter 12, is repealed.

<< Repealed: AR ST § 25-12-101 >>

~~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 5528. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 12 — Department of the Military

<< AR ST § 25-43-1201 >>

25-43-1201. Department of the Military — Creation.

There is created the Department of the Military as a cabinet-level department.

<< AR ST § 25-43-1202 >>

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, now to be known as the Department of the Military.

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

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

<< AR ST § 25-43-1203 >>

25-43-1203. Secretary of the Department of the Military.

(a) The executive head of the Department of the Military is the Secretary of the Department of the Military.

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

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

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

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

(1) Hire department personnel;

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

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

(f) The secretary shall also be the Adjutant General and shall meet all of the qualifications to hold that position.

SECTION 5529. Arkansas Code § 6-60-214(h), concerning tuition benefits for soldiers and airmen of the Arkansas National Guard, is amended to read as follows:

<< AR ST § 6-60-214 >>

(h)(1) The Adjutant General, in coordination with the ~~Department~~ **Division** of Higher Education, shall promulgate rules for the implementation of this section, including without limitation rules for the eligibility of soldiers and airmen.

(2) The ~~State Military Department~~ **of the Military** and the ~~Department~~ **Division** of Higher Education shall meet regularly to monitor and measure the success of this section, including without limitation to assess graduation rates of the soldiers and airmen under this section.

SECTION 5530. Arkansas Code § 12-61-106(a), concerning the powers and duties of the Adjutant General, is amended to read as follows:

<< AR ST § 12-61-106 >>

(a) In addition to being a state staff officer, the Adjutant General shall be the Chief-of-Staff to the Commander-in-Chief and the ~~administrative head of the Military Department~~ **Secretary of the Department of the Military**.

SECTION 5531. Arkansas Code § 12-61-107(b)(2), concerning the employment of personnel, is amended to read as follows:

<< AR ST § 12-61-107 >>

(2) This subsection shall only apply to a person who begins employment with the State Military Department after August 12, 2005 **and with the Department of the Military after July 1, 2019**.

SECTION 5532. Arkansas Code § 12-61-121(a)(3), concerning awards and medals for exceptional or meritorious service, is amended to read as follows:

<< AR ST § 12-61-121 >>

(3) The ~~State Military Department~~ **Department of the Military** is authorized to promulgate necessary rules and regulations to establish the criteria under which any medal, ribbon, or decoration may be awarded.

SECTION 5533. Arkansas Code § 12-61-124 is amended to read as follows:

<< AR ST § 12-61-124 >>

12-61-124. ~~Civilian juvenile student training programs~~ National Guard Youth Challenge Program.

(a) The Adjutant General may, at his or her discretion and with such funds as may be appropriated by the General Assembly, or with such funds as may be provided by the United States, develop and implement ~~civilian juvenile student training programs~~ **a National Guard Youth Challenge Program** for the purpose of providing training, education, health, welfare, rehabilitative, and other services to juveniles.

(b) The Adjutant General is authorized to enter into agreements, contracts, and memoranda of understanding with other state, federal, and local agencies, other persons, firms, and corporations, ~~and the juvenile courts of this state~~ for the purposes of providing training, education, health, welfare, rehabilitative, and other services to juveniles participating in such programs **the program**.

(c) The Adjutant General may promulgate and issue such rules, regulations, and other guidelines as may be necessary and proper to carry out the purposes and provisions of this section.

~~(d)(1) Juvenile participants in the Civilian Student Training Program receiving services from the Arkansas National Guard are authorized to receive a monetary stipend, not to exceed ten dollars (\$10.00) per week to defray personal hygiene and other personal necessities. Juvenile participants are authorized to receive uniforms and clothing items as determined by the staff to be appropriate for effective participation in outdoor activities.~~

~~(2) Transportation to support Civilian Student Training Program activities for juvenile participants and staff may be provided by commercial lease/purchase of motor vehicles not to exceed six (6) vehicles.~~

SECTION 5534. Arkansas Code § 12-61-127 is repealed.

<< Repealed: AR ST § 12-61-127 >>

~~12-61-127. Civilian Student Training Program — Stipend:~~

~~(a) Juvenile participants in the Civilian Student Training Program at Camp Joseph T. Robinson receiving services from the Arkansas National Guard are authorized to receive a monetary stipend, not to exceed ten dollars (\$10.00) per week to defray personal hygiene and other personal necessities.~~

~~(b) Juvenile participants are authorized to receive uniforms and clothing items as determined by the staff to be appropriate for effective participation in outdoor activities.~~

SECTION 5535. Arkansas Code § 12-61-128 is repealed.

<< Repealed: AR ST § 12-61-128 >>

~~12-61-128. Civilian Student Training Program — Transportation:~~

~~Transportation to support Civilian Student Training Program activities for juvenile participants and staff may be provided by commercial lease or purchase of motor vehicles not to exceed six (6) vehicles.~~

SECTION 5536. Arkansas Code § 12-63-209(a), concerning the penalty for criminal trespass upon a military reservation, is amended to read as follows:

<< AR ST § 12-63-209 >>

(a) A person commits the offense of criminal trespass upon a military reservation if he or she purposefully, and without authority, enters upon or remains unlawfully upon any military reservation, military armory, or other military building or property owned, leased, licensed, operated, occupied, maintained, or under the control or management of the State of Arkansas under the control and management of the State Military Department **Department of the Military**.

SECTION 5537. Arkansas Code § 12-63-406(b)(4), concerning the tax exemption for canteen inventory and sales, is amended to read as follows:

<< AR ST § 12-63-406 >>

(4) Full-time employees of the State Military Department **Department of the Military**;

SECTION 5538. Arkansas Code § 12–63–407(d)(2)(B), concerning the Camp Joseph T. Robinson and Fort Chaffee canteens, is amended to read as follows:

<< AR ST § 12–63–407 >>

(B) Full-time employees of the ~~Arkansas Department~~ **Department of the Military** and **the United States** Department of Defense;

SECTION 5539. Arkansas Code § 12–64–110 is amended to read as follows:

<< AR ST § 12–64–110 >>

12–64–110. Appropriations — ~~State Military Department~~ **Department of the Military Fund Account.**

(a) There shall be appropriated annually, for the ~~military department~~ **Department of the Military**, the sum of twenty thousand dollars (\$20,000) for the State Judge Advocate to pay for the administration of military justice.

(b) For the foregoing purposes, there is created in the State Treasury a fund to be designated the ~~State Military Department~~ **“Department of the Military Fund Account–Military Justice Fund”**, from which expenses of military justice shall be paid in the amounts and manner prescribed by law.

SECTION 5540. Arkansas Code § 12–64–518(e), concerning the issuance of process and subpoenas, is amended to read as follows:

<< AR ST § 12–64–518 >>

(e) Any sheriff, constable, jailer, marshal, or other civil officer named in this code, who shall neglect or refuse to obey, execute, or return the lawful warrant or other process of a military court or make a false return thereon, shall be guilty of a misdemeanor and in addition to the penalties attaching thereto, shall forfeit fifty dollars (\$50.00) for each offense or neglect of duty, the money to be recovered in a civil action against the officer and his or her official sureties by the Attorney General for the benefit of the ~~State Military Department~~ **Department of the Military Fund**.

SECTION 5541. Arkansas Code § 12–64–609(c)(1), concerning fines and forfeitures, is amended to read as follows:

<< AR ST § 12–64–609 >>

(c)(1) Notwithstanding any other law, a fine or penalty imposed by a military court upon an officer or enlistee shall be paid by the officer collecting it within thirty (30) days to the Treasurer of State ~~of Arkansas~~ and shall become a part of, be credited to, and be spent from, the ~~State Military Department~~ **Department of the Military Fund**.

SECTION 5542. Arkansas Code § 12–64–610 is amended to read as follows:

<< AR ST § 12–64–610 >>

12–64–610. Delinquent fines or forfeitures.

(a)(1) When a fine or forfeiture is delinquent for a period of ninety (90) days or more, the ~~State Military Department~~ **Department of the Military** shall have a cause of action against the person and property liable for the delinquent portion

of the fine or forfeiture, costs of collection, penalties, and interest to which the ~~State Military Department~~ **Department of the Military** is entitled, plus a reasonable attorney's fee.

(2) The ~~State Military Department~~ **Department of the Military** shall have a lien on all property subject to forfeiture.

(b) The action shall be brought in the Pulaski County Circuit Court.

(c) The judgment awarded the ~~State Military Department~~ **Department of the Military** under this section shall be enforceable to the same extent and in the same manner as other civil judgments.

SECTION 5543. Arkansas Code § 17-105-106(4), concerning the exemption from licensure of a physician assistant, is amended to read as follows:

<< AR ST § 17-105-106 >>

(4) A physician assistant in the service of the ~~State Military Department~~ **Department of the Military** or the Arkansas National Guard, or both. These physician assistants shall be allowed to perform their physician assistant practice duties, including prescribing, in the same manner as they would if federalized by the United States Government;

SECTION 5544. Arkansas Code § 19-5-1007 is amended to read as follows:

<< AR ST § 19-5-1007 >>

19-5-1007. Special Military Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Special Military Fund".

(b) The Special Military Fund is to consist of federal reimbursement received on account of eligible expenditures by the ~~State Military Department~~ **Department of the Military** and shall be used to provide funding wholly or partially for appropriations made payable from the Special Military Fund and to provide supplemental support, to the extent necessary, to the ~~State Military Department~~ **Department of the Military** Fund Account of the State General Government Fund, there to be used solely for the programs of the department.

SECTION 5545. Arkansas Code § 19-5-1095(b)(1)(B), concerning the Military Support Revolving Fund, is amended to read as follows:

<< AR ST § 19-5-1095 >>

(B) All moneys received by the ~~State Military Department~~ **Department of the Military** from the United States Army, the United States Air Force, the United States Navy, foreign allied governments, and reserve forces of the United States, allied nations, and other federal agencies.

SECTION 5546. The introductory language of Arkansas Code § 21-4-204(a)(2), concerning the accrual and use of annual leave, is amended to read as follows:

<< AR ST § 21-4-204 >>

(2) Each fire and emergency service employee of the ~~State Military Department~~ **Department of the Military** who works a regularly scheduled shift of more than forty-seven (47) hours per week is entitled to annual leave with full pay computed on the basis of the following schedule for each complete month of service:

SECTION 5547. Arkansas Code § 21-4-207(a)(1)(B), concerning the accrual and use of sick leave, is amended to read as follows:

<< AR ST § 21-4-207 >>

(B) Each fire and emergency service employee of the ~~State Military Department~~ **Department of the Military** who works a regularly scheduled shift of more than forty-seven (47) hours per week is entitled to sick leave with full pay computed on the basis of one (1) day and four (4) hours for each complete month of service.

SECTION 5548. Arkansas Code § 24-4-1004(a), concerning determination of benefits for civilian firefighters of the State Military Department, is amended to read as follows:

<< AR ST § 24-4-1004 >>

(a) For purposes of determining benefits under this chapter, all credited service, whenever earned, of persons employed as civilian firefighters of the State Military Department **or Department of the Military** as of July 1, 1997, and of persons thereafter employed in those positions shall be treated as public safety member service if the position is one hundred percent (100%) federally funded.

SECTION 5549. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 13 — Department of Parks, Heritage, and Tourism

<< AR ST § 25-43-1301 >>

25-43-1301. Department of Parks, Heritage, and Tourism.

There is created the Department of Parks, Heritage, and Tourism as a cabinet-level department.

<< AR ST § 25-43-1302 >>

25-43-1302. State entities transferred to Department of Parks, Heritage, and Tourism.

(a) The administrative functions of the following state entities are transferred to the Department of Parks, Heritage, and Tourism by a cabinet-level transfer:

- (1) The Advisory Council of the Arkansas Arts Council, created under § 13-8-103;**
- (2) The Arkansas Arts Council, created under § 13-8-103;**
- (3) The Arkansas Historic Preservation Program, created under § 13-7-106;**
- (4) The Arkansas History Commission, created under § 13-3-102;**
- (5) The Arkansas Natural and Cultural Heritage Advisory Committee, created under § 25-3-104;**

- (6) The Arkansas Natural and Cultural Resources Council, created under § 15-12-101;
- (7) The Arkansas Natural Heritage Commission, created under § 15-20-304;
- (8) The Arkansas Post Museum, created under § 13-5-601;
- (9) The Arkansas State Archives, created under § 13-3-101;
- (10) The Black History Commission of Arkansas, created under § 13-3-201;
- (11) The Capitol Zoning District Commission, created under § 22-3-303;
- (12) The Delta Cultural Center Policy Advisory Board, created under § 13-5-704;
- (13) The Department of Arkansas Heritage, created under § 25-3-102, now to be known as the Division of Arkansas Heritage;
- (14) The Department of Parks and Tourism, created under § 25-13-101, now to be known as the Department of Parks, Heritage, and Tourism, the State Parks Division, and the Tourism Division as provided under the Transformation and Efficiencies Act of 2019;
- (15) The Great River Road Division, created under § 25-13-102;
- (16) The Historic Arkansas Museum Commission, created under § 13-7-302;
- (17) The Keep Arkansas Beautiful Commission, created under § 15-11-601;
- (18) The Mosaic Templars of America Center for African-American Cultural and Business Enterprise Advisory Board, created under § 13-5-903;
- (19) The Mosaic Templars of America Center for African-American Cultural and Business Enterprise, created under § 13-5-902;
- (20) The Old State House Commission, created under § 13-7-201; and
- (21) The State Parks, Recreation, and Travel Commission, created under § 15-11-201.

(b) Unless otherwise provided by law, a cabinet-level department transfer under subsection (a) of this section includes all state entities under a state entity transferred to the Department of Parks, Heritage, and Tourism under subsection (a) of this section, including without limitation a division, office, program, or other unit of a state entity transferred to the Department of Parks, Heritage, and Tourism under subsection (a) of this section.

(c) Unless otherwise provided by law, a state entity whose administrative functions have been transferred to Department of Parks, Heritage, and Tourism under subsection (a) of this section shall otherwise continue to exercise the duties of the state entity under the administration of the cabinet-level Department of Parks, Heritage, and Tourism in the same manner as before the creation of the cabinet-level department.

<< AR ST § 25-43-1303 >>

25-43-1303. Secretary of the Department of Parks, Heritage, and Tourism.

(a) The executive head of the Department of Parks, Heritage, and Tourism shall be the Secretary of the Department of Parks, Heritage, and Tourism.

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

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

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

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

(1) Hire department personnel;

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

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

<< AR ST § 25-43-1304 >>

25-43-1304. State Parks Division.

(a) There is created a State Parks 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 State Parks Division.

(c) The Secretary of the Department of Parks, Heritage, and Tourism may employ a Director of the State Parks Division.

<< AR ST § 25-43-1305 >>

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.

<< AR ST § 25-43-1306 >>

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.

<< AR ST § 25-43-1307 >>

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.

<< AR ST § 25-43-1308 >>

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 5550. Arkansas Code § 10-3-1106(1), concerning the need for additional legislative space is amended to read as follows:

<< AR ST § 10-3-1106 >>

(1) The office space on the north wing of the first floor of the State Capitol Building currently used by the ~~Division of Purchasing~~ **Office of State Purchasing**, the Department of Correction, the Department of Parks, **Heritage**, and Tourism, and the Department of Commerce;

SECTION 5551. Arkansas Code § 13-3-101(b) and (c), concerning the creation and purpose of the Arkansas State Archives, are amended to read as follows:

<< AR ST § 13-3-101 >>

(b) The ~~Department of Arkansas Heritage~~ **Department of Parks, Heritage, and Tourism** and the Building Authority Division of the Department of ~~Finance and Administration~~ **Transformation and Shared Services** shall determine the facility needs of the Arkansas State Archives.

(c) The Building Authority Division of the ~~Department of Finance and Administration~~ may locate and negotiate an appropriate facility for the Arkansas State Archives, but the ~~Department of Arkansas Heritage~~ **Department of Parks, Heritage, and Tourism** shall have final approval of the facility's location.

SECTION 5552. Arkansas Code § 13-3-102(g), concerning the members of the Arkansas History Commission, is amended to read as follows:

<< AR ST § 13-3-102 >>

(g) The commission shall advise and assist the ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism** in the performance of his or her duties under this subchapter.

SECTION 5553. Arkansas Code § 13–3–103(a)(1)(A), concerning meetings and records of the Arkansas History Commission, is amended to read as follows:

<< AR ST § 13–3–103 >>

(A) Upon the request of the ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism**; and

SECTION 5554. Arkansas Code § 13–3–105 is amended to read as follows:

<< AR ST § 13–3–105 >>

13–3–105. Delegation to State Historian.

The Director of the ~~Department~~ **Division** of Arkansas Heritage may delegate his or her powers and duties concerning the Arkansas State Archives to the State Historian.

SECTION 5555. Arkansas Code § 13–3–106(a)(1), concerning the powers and duties of the State Historian, is amended to read as follows:

<< AR ST § 13–3–106 >>

(1) Serve at the pleasure of the ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism**; and

SECTION 5556. The introductory language of Arkansas Code § 13–3–106(b)(2), concerning the powers and duties of the State Historian, is amended to read as follows:

<< AR ST § 13–3–106 >>

(2) Been determined by the Director of the ~~Department~~ **Division** of Arkansas Heritage to be qualified to perform the duties of State Historian after considering:

SECTION 5557. Arkansas Code § 13–3–106(e), concerning the powers and duties of the State Historian, is repealed.

<< AR ST § 13–3–106 >>

~~(e) The State Historian shall employ such personnel as may be authorized by law and fix their compensation within the limits provided by law, subject in both respects, however, to approval by the director.~~

SECTION 5558. Arkansas Code § 13–3–107(a)(2), concerning the preservation of public officials' records, is amended to read as follows:

<< AR ST § 13–3–107 >>

(2) When so surrendered, copies from the state, county, or other official's office shall be made and certified by the Director of the ~~Department~~ **Division** of Arkansas Heritage upon the application of any person interested, which

certification shall have the force and effect as if made by the officer originally in the custody of them, and for which the same fee shall be charged to be collected in advance.

SECTION 5559. Arkansas Code § 13-3-201(1), concerning the purpose of the Black History Commission of Arkansas, is amended to read as follows:

<< AR ST § 13-3-201 >>

(1) Advising the ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism** with respect to gathering, developing, and keeping the history of a segment of Arkansas society whose history has been overlooked and forgotten and has been simply neglected because of a lack of concern;

SECTION 5560. Arkansas Code § 13-3-203(b)(1), concerning meetings, rules, bylaws, and the secretary of the Black History Commission of Arkansas, is amended to read as follows:

<< AR ST § 13-3-203 >>

(b)(1) The Black History Commission of Arkansas shall adopt and may modify rules and bylaws for the conduct of its business, subject to the approval of the ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism**.

SECTION 5561. Arkansas Code § 13-5-206 is amended to read as follows:

<< AR ST § 13-5-206 >>

13-5-206. Program of grants-in-aid and technical assistance.

(a) The ~~State Parks Division of the~~ Department of Parks, **Heritage**, and Tourism shall establish and carry out a program of grants-in-aid to eligible museums or, in appropriate cases, organizations engaged in or concerned with history, science, art, or culture on the basis of fifty percent (50%) state grant funds and fifty percent (50%) of the funds to be provided by the museum, as follows:

(1) Only museums and programs concerned with historical, scientific, cultural, or artistically oriented programs offering nonprofit services to the general public may make application for and qualify for funds under this subchapter;

(2) None of the funds received by a museum or other organization which qualifies or utilizes funds under this subchapter shall be used as matching funds for other state funds; and

(3) All requests for state grant funds under this subchapter shall be prepared on forms promulgated or approved by the ~~division~~ **Department of Parks, Heritage, and Tourism** and shall be in compliance with the provisions of this subchapter and with reasonable rules to be promulgated by the ~~division~~ **Department of Parks, Heritage, and Tourism** for the administration of this subchapter.

(b) The ~~division~~ **Department of Parks, Heritage, and Tourism** shall provide technical assistance and information to all museums and museum personnel in Arkansas, within the limitations of available staff and funding.

SECTION 5562. Arkansas Code § 13-5-207 is repealed.

<< Repealed: AR ST § 13-5-207 >>

~~13-5-207. Arkansas Museum Review Panel.~~

~~(a)(1) The Governor shall establish an Arkansas Museum Review Panel to consist of five (5) members, one (1) member from each congressional district and one (1) member designated at large.~~

~~(2) The members shall serve two-year terms.~~

~~(b) The sole purpose and authority of the panel is to analyze, review, and approve the qualifications of the applications and to present recommendations to the Director of the State Parks Division of the Department of Parks and Tourism for the awarding of grants to eligible museums on a yearly basis with the final approval of the Director of the Department of Parks and Tourism.~~

~~(c) The panel shall serve without pay. However, the division is authorized to reimburse the members of the panel for expenses in accordance with § 25-16-901 et seq.~~

SECTION 5563. Arkansas Code § 13-5-307 is amended to read as follows:

<< AR ST § 13-5-307 >>

(a)(1) The ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism is authorized to use any available funds for the construction, equipment, and operation of a museum and cultural center.

(2) The ~~director~~ **secretary** is authorized to issue revenue bonds, secured by and payable from the revenues specified in this subchapter, and to use the proceeds of the bonds for the acquisition, construction, and equipment of the center.

(b) The principal amount of bonds to be issued by the ~~director~~ **secretary** shall be sufficient, together with any available funds, to pay the cost of accomplishing the specified purposes, the costs of authorizing and issuing bonds, the amounts necessary for reserves if deemed desirable by the director, the amounts necessary for interest during and for up to one (1) year after construction, and all other costs of whatever nature incidental to the accomplishment of the center, but in no event shall the aggregate principal amount of bonds exceed twelve million dollars (\$12,000,000).

(c)(1) No bonds shall be issued under the provisions of this subchapter unless and until the ~~director~~ **secretary**, or a department, or educational or other institution, or agency of the State of Arkansas has entered into a signed agreement with the Smithsonian Institution, an agency thereof, or organization affiliated therewith, which agreement shall provide that the Smithsonian Institution, the agency, or organization shall involve itself with the Arkansas Museum and Cultural Center and its operation.

(2) The agreement must first be approved in writing by the Governor of the State of Arkansas.

SECTION 5564. Arkansas Code § 13-5-308(a), concerning authorizing bonds by resolution of the Director of the Department of Parks and Tourism for the Arkansas Museum and Cultural Center, is amended to read as follows:

<< AR ST § 13-5-308 >>

(a) Bonds shall be authorized by resolution of the Director of the Department of Parks and Tourism **Secretary of the Department of Parks, Heritage, and Tourism**.

SECTION 5565. The introductory language of Arkansas Code § 13–5–308(b), concerning authorizing bonds by resolution of the Director of the Department of Parks and Tourism for the Arkansas Museum and Cultural Center, is amended to read as follows:

<< AR ST § 13–5–308 >>

(b) The authorizing resolution may contain or may provide for the execution of a trust indenture which may contain any other terms, covenants, and conditions that are deemed desirable by the director **or secretary**, including, without limitation, those pertaining to:

SECTION 5566. Arkansas Code § 13–5–309(a), concerning the terms and characteristics of bonds issued by the Director of the Department of Parks and Tourism for the Arkansas Museum and Cultural Center, is amended to read as follows:

<< AR ST § 13–5–309 >>

(a) As the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism shall determine, bonds issued pursuant to this subchapter may:

- (1) Be coupon bonds, payable to bearer, or may be registrable as to principal only or as to principal and interest, and may be made exchangeable for bonds of another denomination;
- (2) Be in a form and denomination as the ~~director~~ **secretary** determines;
- (3) Have such date or dates, may be stated to mature at such times, and bear interest payable at such times and at such rate or rates, as the ~~director~~ **secretary** determines, provided that no bond may bear interest at a rate exceeding eight percent (8%) per annum;
- (4) Be made payable at places within or without the State of Arkansas;
- (5) Be made subject to terms of redemption in advance of maturity at such prices, as determined by the ~~director~~ **secretary**;
- (6) Be issued in series from time to time; and
- (7) Contain such terms and conditions as the ~~director~~ **secretary** determines.

SECTION 5567. Arkansas Code § 13–5–310(a), concerning bonds and enforcement of bonds issued by the Director of the Department of Parks and Tourism for the Arkansas Museum and Cultural Center, is amended to read as follows:

<< AR ST § 13–5–310 >>

(a) Any authorizing resolution and trust indenture shall, together with this subchapter, constitute a contract between the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism and the holders and registered owners of the bonds.

SECTION 5568. Arkansas Code § 13–5–311(a), concerning the sale of bonds issued by the Director of the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 13–5–311 >>

(a) The bonds shall be sold at public sale on sealed bids after such advertisement as the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism shall determine to be necessary for the obtaining of favorable competitive bidding.

SECTION 5569. Arkansas Code § 13–5–312(a), concerning the execution of bonds and coupons issued by the Director of the Department of Parks and Tourism for the Arkansas Museum and Cultural Center, is amended to read as follows:

<< AR ST § 13–5–312 >>

(a) The bonds shall be executed by the manual or facsimile signature of the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism. The coupons attached to the bonds shall be executed by the facsimile signature of the ~~director~~ **secretary**.

SECTION 5570. Arkansas Code § 13–5–312(c), concerning the execution of bonds and coupons issued by the Director of the Department of Parks and Tourism for the Arkansas Museum and Cultural Center, is amended to read as follows:

<< AR ST § 13–5–312 >>

(c) The ~~director~~ **secretary** shall adopt and use a seal in the execution and issuance of the bonds. Each bond shall be sealed with the seal of the ~~director~~ **secretary**.

SECTION 5571. Arkansas Code § 13–5–313(a)(2), concerning statements on bonds and liability for bonds issued by the Director of the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 13–5–313 >>

(2) The bonds are obligations only of the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism;

SECTION 5572. Arkansas Code § 13–5–313(a)(4), concerning statements on bonds and liability for bonds issued by the Director of the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 13–5–313 >>

(4) The bonds are not secured by a mortgage or lien on any land or buildings belonging to the State of Arkansas or the Department of Parks, **Heritage**, and Tourism.

SECTION 5573. Arkansas Code § 13–5–314(a) and (b), concerning the disposition of revenues from the operation of the Arkansas Museum and Cultural Center, are amended to read as follows:

<< AR ST § 13–5–314 >>

(a) All revenues derived from the operation of the Arkansas Museum and Cultural Center and all other funds received by the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism from other sources for use in connection with the center and its operation are center revenues and are specifically declared to be cash funds, restricted in their use and to be used solely as provided in this subchapter.

(b) These revenues shall not be deposited in the State Treasury but shall be deposited by the Department of Parks, **Heritage**, and Tourism as and when received in a bank or banks as the ~~director~~ **secretary** may from time to time select.

SECTION 5574. Arkansas Code § 13–5–315(d), concerning debt service, pledge of revenues and earnings, and charges of the Department of Parks and Tourism for operating the Arkansas Museum and Cultural Center, is amended to read as follows:

<< AR ST § 13–5–314 >>

(d) No earnings from the investment of state funds shall be pledged to secure bonds issued by the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism under this subchapter unless the ~~director~~ **secretary** shall first enter into an agreement with the State Board of Finance to charge appropriate fees for admission to the Arkansas Museum and Cultural Center and to set aside in a special sinking fund, to be used exclusively to pay the principal of, interest on, and paying agent's fees in connection with, bonds issued by the ~~director~~ **secretary**, at least seventy-five cents (75¢) of the admission fee collected for each adult and fifty cents (50¢) of the admission fee collected for each person of the ages of six to seventeen (6–17), inclusive.

SECTION 5575. Arkansas Code § 13–5–316(a), concerning administration of debt-servicing provisions and the bond guaranty fund of the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 13–5–316 >>

(a) The ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism shall notify the State Board of Finance or the appropriate officer, board, or agency then having jurisdiction over the moneys involved when the ~~director~~ **secretary** has determined to issue bonds under this subchapter and the amount of investment earnings pledged.

SECTION 5576. Arkansas Code § 13–5–316(a)–(c), concerning refunding bonds from the Department of Parks and Tourism, are amended to read as follows:

<< AR ST § 13–5–316 >>

(a) The ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism is authorized to issue bonds to refund any bonds issued under the authority of this subchapter.

(b)(1) Thereafter, the ~~director~~ **secretary** shall constantly keep advised of revenues derived from the Arkansas Museum and Cultural Center.

(2) If it develops that all or any portion of the investment earnings pledged will actually be needed to satisfy the terms of the pledge, the ~~director~~ **secretary** shall promptly notify the board of the amount that will be actually needed each month to provide for the payment of interest, principal, and paying agents' fees and for the maintenance of reserves as specified by the ~~director~~ **secretary** in the resolution or trust indenture authorizing and securing the bonds, which monthly amount is designated the “debt service amount”.

(c) At the receipt of the notice, the board or the appropriate officer, board, or agency then having jurisdiction over the moneys involved shall set aside the debt service amount of the investment earnings and, subject to first complying with any pledge heretofore or any time hereafter made of investment earnings authorized by the Industrial Development Guaranty Bond Act, § 15–4–701 et seq., shall pay the debt service amount directly to the ~~director~~ **secretary** in a bank or banks selected by the ~~director~~ **secretary** and designated the “Arkansas Museum and Cultural Center Bond Guaranty Fund”, also known as the “Center Guaranty Fund”.

SECTION 5577. Arkansas Code § 13-5-316(d)(2)(A), concerning refunding bonds from the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 13-5-316 >>

(2)(A) The payments shall continue until the ~~director~~ **secretary** shall determine that center revenues in the future will be sufficient and shall notify the board to cease paying the debt service amount.

SECTION 5578. Arkansas Code § 13-5-320 is amended to read as follows:

<< AR ST § 13-5-320 >>

13-5-320. Audit of records and accounts.

Arkansas Legislative Audit is authorized and directed to audit the records and accounts of the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism and to furnish a copy of the report of that audit to the ~~department~~ **Department of Parks, Heritage, and Tourism**.

SECTION 5579. Arkansas Code § 13-5-321 is amended to read as follows:

<< AR ST § 13-5-321 >>

13-5-321. Employment of personnel.

(a) The ~~Director of the Department of Parks and Tourism~~ **Secretary of the Department of Parks, Heritage, and Tourism** is authorized to employ such full-time or temporary professional, technical, and other consulting services as the ~~Director of the Department of Parks and Tourism~~ **secretary** shall determine necessary or desirable in assisting the Department of Parks, **Heritage**, and Tourism to carry out effectively the authority, functions, powers, and duties conferred and imposed upon it by this subchapter.

(b) However, the salaries of regular employees shall be governed by the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., and by the provisions of the Regular Salary Procedures and Restrictions Act, § 21-5-101.

(c) The Director of the Arkansas Museum and Cultural Center shall be employed by the ~~Director of the Department of Parks and Tourism~~ **secretary**.

SECTION 5580. Arkansas Code § 13-5-401 is amended to read as follows:

<< AR ST § 13-5-401 >>

13-5-401. Museum established.

The State Parks Division ~~of the Department of Parks and Tourism~~ is authorized and directed to establish a state historical museum in Union County to be known and operated as the “Arkansas Museum of Natural Resources”.

SECTION 5581. Arkansas Code § 13-5-402(a), concerning the functions and duties of the Arkansas Museum of Natural Resources, is amended to read as follows:

<< AR ST § 13-5-402 >>

(a) The Arkansas Museum of Natural Resources 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 machinery, equipment, and materials used in the oil boom in Arkansas.

SECTION 5582. Arkansas Code § 13-5-403 is amended to read as follows:

<< AR ST § 13-5-403 >>

13-5-403. Museum site.

The Arkansas Museum of Natural Resources shall be established at a site to be approved by the State Parks Division of the ~~Department of Parks and Tourism~~, with the lands therefor, which shall consist of not fewer than five (5) acres, to be donated without cost to the State of Arkansas.

SECTION 5583. Arkansas Code § 13-5-503(6), concerning the creation, powers, and duties of the county museum commissions, is amended to read as follows:

<< AR ST § 13-5-503 >>

(6) To enter into agreements with the ~~Department~~ **Division** of Arkansas Heritage and other public and private agencies or persons, for the purpose of sharing services and facilities, with the view that the historical and cultural resources of this state may be coordinated at the county and state levels for the benefit of the public of this state;

SECTION 5584. 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:

<< AR ST § 13-5-505 >>

(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 5585. Arkansas Code § 13-5-601 is amended to read as follows:

<< AR ST § 13-5-601 >>

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 5586. Arkansas Code § 13-5-602 is amended to read as follows:

<< AR ST § 13-5-602 >>

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 5587. 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.

<< AR ST § 13-5-702 >>

(4) “Department” means the Department of Arkansas Heritage;

(5) “Director” means the Director of the Department of Arkansas Heritage; and

SECTION 5588. Arkansas Code § 13-5-703 is amended to read as follows:

<< AR ST § 13-5-703 >>

13-5-703. Establishment.

(a)(1) There is established the Delta Cultural Center which shall be a division of the ~~Department~~ **Division** of Arkansas Heritage. The center shall be located in Helena **Helena-West Helena**.

(2) The ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism**, with the advice and consent of the Governor, shall ~~appoint~~ **employ** the Director of the Delta Cultural Center. All other employees of the center shall be employed by and serve at the pleasure of the ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism**.

(b)(1) The center shall operate a program of temporary and permanent exhibits, a library and resource center, and live performances and shall provide information on related activities in other parts of the Arkansas Delta region.

(2) The attraction of visitors to the Arkansas Delta shall be a major goal of the center.

(c)(1) All budgeting, purchasing, and related management functions of the center shall be performed under the direction and supervision of the ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism**.

(2) The ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism**, after seeking the advice of the Delta Cultural Center Policy Advisory Board, shall promulgate any rules necessary for the implementation of this subchapter.

SECTION 5589. Arkansas Code § 13-5-704(a), concerning the Delta Cultural Center Policy Advisory Board, is amended to read as follows:

<< AR ST § 13-5-704 >>

(a) There is created the Delta Cultural Center Policy Advisory Board, which shall advise the **Secretary of the Department of Parks, Heritage, and Tourism**, Director of the ~~Department~~ **Division** of Arkansas Heritage, and staff of the Delta Cultural Center on:

- (1) The development of permanent and temporary exhibits;
- (2) A plan for the acquisition of resource materials; and
- (3) The development of educational and other programming.

SECTION 5590. Arkansas Code § 13-5-706(d)(1), concerning the powers of the Delta Cultural Center, is amended to read as follows:

<< AR ST § 13-5-706 >>

(d)(1) The center may request the assistance of the **Secretary of the Department of Parks, Heritage, and Tourism** ~~Department of Parks and Tourism~~ and any other appropriate state agency in establishing and operating the center and its programs.

SECTION 5591. Arkansas Code § 13-5-801 is amended to read as follows:

<< AR ST § 13-5-801 >>

13-5-801. Arkansas Cotton Museum established.

The Department of Parks, **Heritage**, and Tourism is authorized to coordinate the establishment of ~~an~~ **a** historical museum in Lee County, to be known and operated as the “Arkansas Cotton Museum”. The museum shall be established in association with the University of Arkansas ~~Agricultural Experiment Station in Lee County~~ **Cooperative Extension Service**.

SECTION 5592. Arkansas Code § 13-5-901(4) and (5), concerning the definition of “department” and “director” under the laws establishing the Mosaic Templars of America Center for African–American Culture and Business Enterprise, are repealed.

<< AR ST § 13-5-901 >>

(4) ~~“Department” means the Department of Arkansas Heritage; and~~

(5) ~~“Director” means the Director of the Department of Arkansas Heritage.~~

SECTION 5593. Arkansas Code § 13-5-902 is amended to read as follows:

<< AR ST § 13-5-902 >>

13-5-902. Establishment — Administration.

(a)(1) There is established the Mosaic Templars of America Center for African–American Culture and Business Enterprise which shall be a division of the ~~Department~~ **Division** of Arkansas Heritage.

(2)(A) ~~The Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism**, with the advice and consent of the Governor, shall appoint the Director of the Mosaic Templars of America Center for African–American Culture and Business Enterprise.

(B) All other employees of the center shall be employed by and serve at the pleasure of the ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism** in compliance with state law.

(b) The center shall operate a program of temporary and permanent exhibits, a library and resource center, and live performances. The attraction of visitors shall be a major goal of the center.

(c)(1) All budgeting, purchasing, and related management functions of the center shall be performed under the direction and supervision of the **Secretary of the Department of Parks, Heritage, and Tourism, in consultation with the** Director of the Mosaic Templars of America Center for African–American Culture and Business Enterprise in compliance with state law.

(2) ~~The Director of the Mosaic Templars of America Center for African–American Culture and Business Enterprise~~ **Secretary of the Department of Parks, Heritage, and Tourism**, after seeking the advice of the Mosaic Templars of America Center for African–American Culture and Business Enterprise Advisory Board, shall promulgate any rules necessary for the implementation of this subchapter.

SECTION 5594. Arkansas Code § 13–5–903(a), concerning the creation of the Mosaic Templars of America Center for African–American Culture and Business Enterprise Advisory Board, is amended to read as follows:

<< AR ST § 13–5–903 >>

(a) There is created the Mosaic Templars of America Center for African–American Culture and Business Enterprise Advisory Board which shall advise the **Director of the Arkansas Heritage Division**, Director of the Mosaic Templars of America Center for African–American Culture and Business Enterprise, and staff of the Mosaic Templars of America Center for African–American Culture and Business Enterprise on the development of permanent and temporary exhibits, a plan for acquisition of resource materials, and development of educational and other programming.

SECTION 5595. Arkansas Code § 13–5–904(a), concerning the powers of the Mosaic Templars of America Center for African–American Culture and Business Enterprise, is amended to read as follows:

<< AR ST § 13–5–904 >>

(a) The Mosaic Templars of America Center for African–American Culture and Business Enterprise shall have the power to enter into, **with the consent of the Secretary of the Department of Parks, Heritage, and Tourism**:

- (1) Contracts for the purchase, construction, lease, or other acquisition of real property to house the center and to acquire or construct necessary support facilities;
- (2) Contracts to purchase or lease personal property for use as exhibits or for use as research material; and
- (3) Professional service contracts with appropriate professionals to assist in the establishment of the center and the development and operation of the center's programs and activities.

SECTION 5596. Arkansas Code § 13–5–1013 is amended to read as follows:

<< AR ST § 13–5–1013 >>

13–5–1013. Rules.

The ~~Department of Parks and Tourism~~, in consultation with the ~~Department of Arkansas Heritage~~ **Department of Parks, Heritage, and Tourism** shall promulgate rules to carry out the provisions of this subchapter, including, but not limited to, rules concerning the form and substance of loan agreements.

SECTION 5597. Arkansas Code § 13–7–103 is amended to read as follows:

<< AR ST § 13–7–103 >>

13–7–103. Construction.

Nothing in this subchapter shall be construed to repeal or diminish any of the powers, functions, or responsibilities of the ~~Department of Arkansas Heritage~~ **Department of Parks, Heritage, and Tourism**, the State Parks, Recreation, and Travel Commission, the Old State House Commission, and the Arkansas Archeological Survey, as prescribed by law.

SECTION 5598. Arkansas Code § 13–7–104 is amended to read as follows:

<< AR ST § 13–7–104 >>

13–7–104. Administration of program.

The ~~Department of Arkansas Heritage~~ **Department of Parks, Heritage, and Tourism, Division of Arkansas Heritage** is designated as the agency of this state to develop and implement a statewide program of historic preservation.

SECTION 5599. Arkansas Code § 13–7–105(b), concerning the ability of the Arkansas Archeological Survey to perform archeological functions, is amended to read as follows:

<< AR ST § 13–7–105 >>

(b) In furtherance of the development and implementation of a statewide program of historic preservation, the survey and the Arkansas Historic Preservation Program of the ~~Department~~ **Division** of Arkansas Heritage shall cooperate in the fullest manner possible.

SECTION 5600. Arkansas Code § 13–7–106(a), concerning the powers and duties of the Arkansas Historic Preservation Program, is amended to read as follows:

<< AR ST § 13–7–106 >>

(a) The Arkansas Historic Preservation Program, a division of the ~~Department~~ **Division** of Arkansas Heritage, under the State Historic Preservation Officer, shall have the following powers and duties:

- (1) To implement the development of a State Historic Preservation Plan as contemplated by 54 U.S.C. § 302301 et seq., but not necessarily restricted thereto, and to be responsible for the historical, architectural, and cultural portions of that plan;
- (2) To conduct surveys and otherwise develop the data necessary for the historical, architectural, and cultural portions of the State Historic Preservation Plan;

(3) To cooperate with the Arkansas Archeological Survey which will be responsible for the archeological portion of the statewide program for historic preservation and the State Historic Preservation Plan as provided for in § 13–7–105;

(4) To coordinate the surveys and other programs of activities of all state and private agencies in connection with projects supported by federal funds provided to the department **Division of Arkansas Heritage** to implement 54 U.S.C. § 302301 et seq. and all cash funds or appropriated state funds made available to the department **division** for the program;

(5) To allocate any federal funds which are provided to implement 54 U.S.C. § 302301 et seq. to those state agencies or private or other organizations which are professionally staffed and capable of carrying out the programs provided for by 54 U.S.C. § 302301 et seq.;

~~(6) To employ such necessary personnel, consultants, planners, or other employees or professional services within the limits of funds available therefor as may be required in the performance of services contemplated by this subchapter, and to contract with any and all public firms or agencies for the purpose of making state surveys and plans necessary for the implementation of this subchapter;~~

~~(7) To accept and administer funds received from the state or federal government or any other governmental agencies or from any private source in furtherance of the provisions of this subchapter; provided, that administration and acceptance does not include cash or appropriated funds made available to the Arkansas Archeological Survey from whatever source;~~

~~(8)~~ **(7)** To reimburse members of committees appointed by the Governor for expenses in accordance with § 25–16–901 et seq.;

~~(9)~~ **(8)** To enlist the cooperation and assistance of the Old State House Commission, the Arkansas State Archives, the State Parks, Recreation, and Travel Commission, and all other agencies for historical, architectural, and cultural purposes, to the end that all activities shall be developed in accordance with the plan as contemplated by this subchapter and 54 U.S.C. § 302301 et seq., and in accordance with existing state laws pertaining to the duties and responsibilities of each of the agencies indicated in this subdivision ~~(a)(9)~~ **(a)(8)**;

~~(10)~~ **(9)** To cooperate with federal, state, and local government agencies in surveying the state for historic properties to be included in the State Register of Historic Places or National Register of Historic Places, or both, in the planning and conduct of specific undertakings affecting historic properties and preservation objectives, and, generally, in overall planning for the use of land; and

~~(11)~~ **(10)** To perform all other functions necessary in the furtherance of the purpose of this subchapter and in coordinating and implementing the participation by this state in the purposes contemplated by 54 U.S.C. § 302301 et seq.

SECTION 5601. Arkansas Code § 13–7–107(a), concerning the appointment and duties of the State Historic Preservation Officer, is amended to read as follows:

<< AR ST § 13–7–107 >>

(a) The Governor shall designate the State Historic Preservation Officer who shall be an employee of the ~~Department~~ **Division** of Arkansas Heritage.

SECTION 5602. Arkansas Code § 13-7-111(b)(1), concerning signage for war relocation centers, is amended to read as follows:

<< AR ST § 13-7-111 >>

(b)(1) The ~~Department~~ **Division** of Arkansas Heritage shall erect signs to inform visitors about the historic landmarks of Jerome and Rohwer in Southeast Arkansas, subject to the appropriation and availability of funding.

SECTION 5603. Arkansas Code § 13-7-111(c)(5), concerning signage for war relocation centers, is amended to read as follows:

<< AR ST § 13-7-111 >>

(5) Other information as determined by the ~~Department~~ **Division** of Arkansas Heritage that would be of value to visitors of Jerome and Rohwer.

SECTION 5604. Arkansas Code § 13-7-203(b), concerning the officers, rules, meetings, and reports of the Old State House Commission, is amended to read as follows:

<< AR ST § 13-7-203 >>

(b) The commission shall select from its membership from time to time a vice chair and a secretary. ~~The commission shall be authorized to employ the secretary either as curator or as receptionist.~~

SECTION 5605. Arkansas Code § 13-7-203(f), concerning the officers, rules, meetings, and reports of the Old State House Commission, is amended to read as follows:

<< AR ST § 13-7-203 >>

(f) By the first Monday in September of each year, it shall be the duty of the commission to cause to be prepared and presented to the ~~Governor~~ **Secretary of the Department of Parks, Heritage, and Tourism** a report showing the operation of the commission during the previous fiscal year and containing recommendations.

SECTION 5606. Arkansas Code § 13-7-205, concerning the powers and duties of the Old State House Commission, is amended to add an additional subdivision to read as follows:

<< AR ST § 13-7-205 >>

(10) Receive administrative support and be provided all employees necessary to carry out the duties of the Old State House Commission from the Department of Parks, Heritage, and Tourism.

SECTION 5607. Arkansas Code § 13-7-302(b), concerning the creation, duties, and powers of the Historic Arkansas Museum Commission, is amended to read as follows:

<< AR ST § 13-7-302 >>

(b) The commissioners shall have power to employ **request the Department of Parks, Heritage, and Tourism to employ all** architects and other employees necessary in carrying out restoration and in maintaining a historic center after restoration is accomplished.

SECTION 5608. Arkansas Code Title 13, Chapter 7, Subchapter 4, is repealed.

<< Repealed: AR ST § 13-7-401 >>

~~13-7-401. Creation — Members:~~

~~(a) There is created a Prairie Grove Battlefield State Park Advisory Commission.~~

~~(b)(1) The commission shall be composed of seven (7) qualified electors of the State of Arkansas to be appointed by the Governor and shall serve in an advisory capacity to the State Parks Division of the Department of Parks and Tourism.~~

~~(2) Four (4) members of the commission shall be residents of Washington County, Arkansas.~~

~~(3) One (1) member of the commission shall be an historian by profession.~~

~~(c) The members of the commission shall be appointed for five-year staggered terms of office.~~

~~(d) Vacancies on the commission caused by death, resignation, or any other reason shall be filled by appointment by the Governor for the unexpired portion of the term.~~

~~(e)(1) The commission shall advise the division in the establishment of policies and procedures for the development and operation of the Prairie Grove Battlefield State Park.~~

~~(2) However, final authority for all matters relating to the development and operation of the park shall rest with the Director of the Department of Parks and Tourism.~~

~~(f) Under the supervision of the Superintendent of the Prairie Grove Battlefield State Park and with the approval of the director, the commission shall develop and coordinate efforts to encourage gifts or donations to the park.~~

<< Repealed: AR ST § 13-7-402 >>

~~13-7-402. Officers — Oaths and compensation of members:~~

~~(a) Before any member of the Prairie Grove Battlefield State Park Advisory Commission shall enter upon his or her duties as a member of the commission, the member shall take the oath required of elected state officials and shall file a copy of the oath in the office of the Secretary of State.~~

~~(b)(1) Upon its appointment, the commission shall meet and organize by electing one (1) member as chair and one (1) member as secretary and shall elect any other officers as the commission deems necessary.~~

~~(2) The officers shall be elected annually.~~

~~(c)(1) Members of the commission shall serve without compensation.~~

~~(2) However, the members may receive expense reimbursement in accordance with § 25-16-901 et seq.~~

SECTION 5609. Arkansas Code § 13-7-504(e), concerning the creation of fund and administration of the Historic Preservation Revolving Loan Fund, is amended to read as follows:

<< AR ST § 13-7-504 >>

(e) In the event the program ceases to make loans from the Historic Preservation Revolving Loan Fund, any moneys remaining in the Historic Preservation Revolving Loan Fund may be transferred to the Natural and Cultural Resources Historic Preservation Fund, as certified to the Chief Fiscal Officer of the State by the ~~Department~~ **Division** of Arkansas Heritage.

SECTION 5610. Arkansas Code § 13-8-103 is amended to read as follows:

<< AR ST § 13-8-103 >>

13-8-103. Establishment and composition.

(a) There is established the Arkansas Arts Council as ~~a separate and distinct agency~~ under the laws of the State of Arkansas and under the jurisdiction and supervision of the ~~Department of Arkansas Heritage~~ **Division of Arkansas Heritage of the Department of Parks, Heritage, and Tourism**.

(b)(1) The Arkansas Arts Council shall consist of an advisory council and ~~an executive~~ **a** director.

(2) The Advisory Council of the Arkansas Arts Council shall develop and implement a comprehensive statewide program for the support of the arts in Arkansas pursuant to this subchapter.

(3) The ~~Executive~~ Director of the Arkansas Arts Council shall administer the provisions of this subchapter and the rules and orders established under this subchapter.

SECTION 5611. Arkansas Code § 13-8-105 is amended to read as follows:

<< AR ST § 13-8-105 >>

13-8-105. ~~Executive director~~ Director.

(a) The ~~Executive~~ Director of the Arkansas Arts Council shall:

(1) be ~~Be~~ the ex officio secretary of the Advisory Council of the Arkansas Arts Council but shall have no vote on matters coming before the advisory council;

(2) Shall be an employee of the Department of Parks, Heritage, and Tourism; and

(3) Shall be employed by the Secretary of the Department of Parks, Heritage, and Tourism in consultation with the Arkansas Arts Council.

(b) The ~~executive~~ director's salary and expenses of his or her office shall be fixed by the General Assembly within amounts available therefor by appropriation.

(c) The advisory council by resolution duly adopted may delegate to the ~~executive~~ director any of the powers and duties vested in or imposed upon it by this subchapter, and the delegated powers and duties may be exercised by the ~~executive~~ director in the name of the Arkansas Arts Council.

SECTION 5612. Arkansas Code § 13–8–106(a)(1)(A), concerning the powers and duties of the Arkansas Arts Council, is amended to read as follows:

<< AR ST § 13–8–106 >>

(A) To advise the ~~Governor~~ **Secretary of the Department of Parks, Heritage, and Tourism** and General Assembly on matters relating to the arts;

SECTION 5613. Arkansas Code § 13–8–106(c)(2) and (3), concerning the powers and duties of the Arkansas Arts Council, are amended to read as follows:

<< AR ST § 13–8–106 >>

(2) The ~~Executive~~ Director of the Arkansas Arts Council shall be the Governor's liaison officer to implement the National Foundation on the Arts and Humanities Act of 1965, 20 U.S.C. § 951 et seq.

(3) All programs of grants-in-aid as described in this section shall be administered by the ~~executive~~ director.

SECTION 5614. Arkansas Code § 13–8–106(f), concerning the powers and duties of the Arkansas Arts Council, are amended to read as follows:

<< AR ST § 13–8–106 >>

(f) The Arkansas Arts Council shall submit an annual report to the ~~Governor~~ **Secretary of the Department of Parks, Heritage, and Tourism** as of June 30 of each year, summarizing the Arkansas Arts Council's activities, expenditures, and grants of money or property from all sources for the preceding year. This report shall include recommendations directed toward furthering the purposes of this subchapter as the Arkansas Arts Council deems appropriate.

SECTION 5615. Arkansas Code § 13–13–101(a), concerning the creation of the Arkansas Civil War Sesquicentennial Commission, is amended to read as follows:

<< AR ST § 13–13–101 >>

(a) The Arkansas Civil War Sesquicentennial Commission is created to assist the ~~Department~~ **Division** of Arkansas Heritage in carrying out its duties and responsibilities as provided in this chapter.

SECTION 5616. Arkansas Code § 13–13–102(c)(4)(A) and (B), concerning the members of the Arkansas Civil War Sesquicentennial Commission, are amended to read as follows:

<< AR ST § 13–13–102 >>

(A) Director of the ~~Department~~ **Division** of Arkansas Heritage;

(B) ~~Director~~ **Secretary** of the Department of Arkansas **Parks, Heritage, and Tourism**;

SECTION 5617. Arkansas Code § 13–14–103(d), concerning Arkansas heritage trails, is amended to read as follows:

<< AR ST § 13–14–103 >>

(d) The Department of Parks, **Heritage**, and Tourism shall:

- (1) Administer the provisions of this chapter; and
- (2) Establish a uniform marker for the Arkansas heritage trails system.

SECTION 5618. Arkansas Code § 13–14–104(b)(3), concerning designation of the Arkansas heritage trails, is amended to read as follows:

<< AR ST § 13–14–104 >>

- (3) American Indian removal routes designated by the Department of Parks, **Heritage**, and Tourism, including without limitation land and water routes for Cherokee, Choctaw, Muscogee (Creek), Chickasaw, and Seminole tribes; and

SECTION 5619. Arkansas Code § 13–14–105(a), concerning studies of prospective Arkansas heritage trails, is amended to read as follows:

<< AR ST § 13–14–104 >>

(a) The Department of Parks, **Heritage**, and Tourism, in consultation with the Arkansas State Archives, the Arkansas Historic Preservation Program, and the Arkansas Department of Transportation, shall conduct studies to determine the feasibility of designating additional trails as heritage trails.

SECTION 5620. Arkansas Code § 13–14–105(c), concerning studies of prospective Arkansas heritage trails, is amended to read as follows:

<< AR ST § 13–14–105 >>

(c) The following routes shall be studied by the Department of Parks, **Heritage**, and Tourism to determine the feasibility and desirability of designating other trails as heritage trails:

- (1) The Line Road from Van Buren to Evansville;
- (2) The Memphis to Little Rock Road;
- (3) The Rock Roe Landing connection to the Memphis to Little Rock Road from where Rock Roe enters the White River to the Memphis to Little Rock Road;
- (4) The Cadron to Arkansas Post Road;
- (5) The Little Rock to Fort Smith Road section to Potts old place north of Potts Tavern;
- (6) The Little Rock to Fort Smith and Fort Gibson section from Potts to Fort Smith crossing the Arkansas River at Dardanelle;
- (7) The Upper Cut Road;

- (8) The Little Rock to Washington Road;
- (9) The Old Fort Towson Road from Washington to American Indian Territory;
- (10) The Antoine to Fort Towson Road;
- (11) The Ecore Fabre to Washington Route; and
- (12) The Ecore Fabre to Point Chicot Road.

SECTION 5621. Arkansas Code § 14-172-207(1)(A)(i), concerning the establishment of historic districts, is amended to read as follows:

<< AR ST § 14-172-207 >>

(1)(A)(i) An historic district commission, established as provided in § 14-172-206, shall make an investigation and report on the historic significance of the buildings, structures, features, sites, or surroundings included in any such proposed historic district and shall transmit copies of its report to the Arkansas Historic Preservation Program, a division of the ~~Department~~ **Division** of Arkansas Heritage, to the planning commission of the municipality or county, if any, and in the absence of such commission, to the governing body of the municipality or county for its consideration and recommendation.

SECTION 5622. Arkansas Code § 14-270-202 is amended to read as follows:

<< AR ST § 14-270-202 >>

14-270-202. Elements of the grants program.

There is hereby established the FUN Parks Grants Program to be administered by the ~~Arkansas Department of Parks and Tourism~~ **Department of Parks, Heritage, and Tourism**. The purpose of the FUN Parks **Grants** Program is to provide basic outdoor recreation facilities including baseball and softball fields, basketball courts, picnic tables and pavilions, and playground equipment to residents of small Arkansas communities. The goal of this program is to build two hundred (200) new outdoor parks statewide in communities of two thousand five hundred (2,500) or less as established by the 1990 census. Up to fifty (50) new FUN parks may be constructed each year in each of the next four (4) years at a cost not to exceed ten thousand dollars (\$10,000) for each FUN park.

SECTION 5623. Arkansas Code § 14-270-203 is amended to read as follows:

<< AR ST § 14-270-203 >>

14-270-203. Authorization.

The ~~Arkansas~~ Department of Parks, **Heritage**, and Tourism is herein authorized to promulgate procedures, rules, guidelines, or regulations necessary for the administration of the FUN Park Grants Program.

SECTION 5624. Arkansas Code § 15-11-101 is amended to read as follows:

<< AR ST § 15-11-101 >>

15-11-101. Publicity generally.

It shall be the duty of the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism to:

- (1) ~~Devote his or her entire time to the carrying out of the provisions of this section;~~
- (2) Make available and make use of the materials and information assembled by state agencies and gather additional information and materials concerning the state's resources, its department **and divisions** of government, and its institutions;
- (3) ~~(2)~~ Make this information available to the newspapers, magazines, and other media of publicity for the preparation of articles and stories favorable to the state, its resources, its institutions, and its department **and divisions** of government;
- (4) ~~(3)~~ Prepare paid advertisements favorable to the State of Arkansas and, subject to the approval of the State Parks, Recreation, and Travel Commission, expend such state funds as may be made available for this purpose in the publication of advertisements in magazines, newspapers, and ~~other periodicals~~ **traditional and digital media**, either directly with advertising media or through the services of a recognized advertising agency on a commission basis regularly allowed by the advertising media;
- (5) ~~(4)~~ Assemble and prepare material for the publication of pamphlets, booklets, folders, maps, brochures, and other similar advertising matter concerning the State of Arkansas and contract, subject to the approval of the commission, for the reproduction of advertising matter;
- (6) ~~(5)~~ Distribute advertising matter to the general public or to special groups for which it is intended, either by mail or other method; and
- (7) ~~(6)~~ Assist and aid the various department **departments and divisions** of state in the preparation and distribution of pamphlets, booklets, folders, etc., when it may be deemed advisable to give publicity to the activities of any department **or division** or to inform the public of the activities, rules, regulations, or requirements of the state government.

SECTION 5625. Arkansas Code § 15-11-102 is amended to read as follows:

<< AR ST § 15-11-102 >>

15-11-102. Promulgation of rules and procedures.

(a) The Department of Parks, **Heritage**, and Tourism is specifically authorized to promulgate its own rules and procedures applying to the purchase of printed material and specialty items for advertising purposes. The Department of Parks, **Heritage**, and Tourism will take no less than a minimum of three (3) bids in purchasing printing and specialty items. The records pertaining to the bidding procedures, bids, and contract awards will be made a part of the permanent record file of the Department of Parks, **Heritage**, and Tourism, and copies will be forwarded to the purchasing department of the Department of Finance and Administration.

(b) The Department of Parks, **Heritage**, and Tourism is specifically authorized to promulgate its own rules and procedures applying to the professional services of an advertising agency. The Department of Parks, **Heritage**, and Tourism will take proposals and contract with an advertising agency with the advice of the Legislative Council.

SECTION 5626. Arkansas Code § 15-11-204(b), concerning the organization and meetings of the State Parks, Recreation, and Travel Commission, is amended to read as follows:

<< AR ST § 15-11-204 >>

(b) The Director **Secretary** of the Department of Parks, **Heritage**, and Tourism provided for in § 15-11-205 shall be ex officio Secretary of the State Parks, Recreation, and Travel Commission but shall have no vote on matters coming before the commission.

SECTION 5627. Arkansas Code § 15-11-205 is amended to read as follows:

<< AR ST § 15-11-205 >>

15-11-205. Director Secretary of the Department of Parks, Heritage, and Tourism.

(a) ~~The State Parks, Recreation, and Travel Commission, with the approval of the Governor, shall employ a Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism who shall be charged with the duty of administering the provisions of this subchapter and the rules, regulations, and orders established thereunder.

(b) ~~The commission~~ **State Parks, Recreation, and Travel Commission**, by resolution duly adopted, may delegate to the Director **Secretary** of the Department of Parks, **Heritage**, and Tourism any of the powers or duties vested in or imposed upon it by this subchapter, and the delegated powers and duties may be exercised by the Director **Secretary** of the Department of Parks, **Heritage**, and Tourism in the name of the commission.

(c) ~~The Director of the Department of Parks and Tourism shall:~~

~~(1) Be selected with special reference to his or her executive ability, experience, and interest in the resources and development of the state;~~

~~(2) Be a person with at least five (5) years' experience in the newspaper or radio profession in an editorial or advertising capacity;~~

~~(3) Be custodian of all property held in the name of the commission;~~

~~(4) Be ex officio the disbursing agent of all funds available for its use; and~~

~~(5)(A) Furnish a bond to the state with a corporate surety thereon in the penal sum of ten thousand dollars (\$10,000), conditioned that he or she will faithfully perform his or her duties of employment and properly account for all funds received and disbursed by him or her.~~

~~(B) An additional disbursing agent's bond shall not be required of the Director of the Department of Parks and Tourism.~~

~~(C) The bond so furnished shall be filed with the Secretary of State, and an executed counterpart of the bond shall be filed with the Auditor of State.~~

~~(d)(1) The Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism, subject to approval of the commission, shall employ, **upon the recommendation of the commission**, a Director of **the State Parks Division** and a Director of ~~Recreation and Travel~~ **the Tourism Division** and such assistants and other personnel as necessary to properly administer the provisions of this subchapter, with the duties of both the Director of State Parks and the Director of ~~Recreation and Travel~~ **the Tourism Division** and such assistants as appointed to be independent of the other, but the Director of State Parks and the Director of ~~Recreation and Travel~~ **the Tourism Division** shall cooperate as necessary for the proper performance of the commission **and the department**.

~~(2) The Director of Recreation and Travel~~ **the Tourism Division**, as appointed by the Director **Secretary** of the Department of Parks, **Heritage**, and Tourism, shall be a person with a background in the travel service industry or

editorial experience in news media with a minimum of three (3) years' experience in news media or travel service, with special consideration being given to a background in advertising.

SECTION 5628. Arkansas Code § 15–11–207(a) and (b), concerning the Director of the Department of Parks and Tourism's cooperation with news media representatives, are amended to read as follows:

<< AR ST § 15–11–207 >>

(a) The ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism and his or her staff shall cooperate with representatives of newspapers, magazines, and radio and television stations but shall not otherwise be identified with any of these enterprises.

(b)(1) All information or publicity originated or developed by the ~~director~~ **secretary** and his or her staff shall be released to all news media at times agreeable to a majority of the representatives thereof who are assigned to the State Capitol Building.

(2) However, upon the request of any such representative or other individual for specific information not theretofore originated and developed for a news release by the ~~director~~ **secretary** or his or her staff, the ~~director~~ **secretary** shall furnish the news release to the individual making the request without regard to the provision of subdivision (b)(1) of this section.

SECTION 5629. Arkansas Code § 15–11–210 is amended to read as follows:

<< AR ST § 15–11–210 >>

15–11–210. Award of pistol upon retirement.

When a commissioned law enforcement officer of the State Parks Division ~~of the Department of Parks and Tourism~~ retires from service in good standing after twenty (20) years of service, in recognition of and appreciation for the service of the retiring officer, the Director of the State Parks Division may award to the officer the pistol carried by the officer at the time of his or her retirement from service.

SECTION 5630. Arkansas Code § 15–11–211(a), concerning the disposal of railroad track material by the State Parks, Recreation, and Travel Commission and the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 15–11–211 >>

(a) The State Parks, Recreation, and Travel Commission and the Department of Parks, **Heritage**, and Tourism are authorized to dispose of rail and other railroad track material by gift or contract to a regional intermodal facilities authority organized pursuant to the Regional Intermodal Facilities Act, § 14–143–101 et seq., a metropolitan port authority organized pursuant to the Metropolitan Port Authority Act of 1961, § 14–185–101 et seq., or a planning and development district recognized by § 14–166–202.

SECTION 5631. Arkansas Code § 15–11–212 is amended to read as follows:

<< AR ST § 15–11–212 >>

15–11–212. Enforcement of state law — Statewide jurisdiction.

A person designated as and employed as a law enforcement officer by the Department of Parks, **Heritage**, and Tourism shall:

- (1) Be a certified law enforcement officer under § 12–9–101 et seq.; and
- (2) Have statewide law enforcement jurisdiction and authority.

SECTION 5532. Arkansas Code § 15–11–301 is amended to read as follows:

<< AR ST § 15–11–301 >>

15–11–301. Creation.

The Department of Parks, **Heritage**, and Tourism is authorized and directed to establish, as funds are provided therefor, and to maintain and operate at or near the federal interstate highway points of entry into this state tourist information bureaus to perform the functions and duties as provided by this subchapter.

SECTION 5633. Arkansas Code § 15–11–302(1), concerning the duties of the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 15–11–302 >>

- (1) Be open to the public at regular business hours and, during tourist seasons, shall be operated at such other hours as may be determined by the Department of Parks, **Heritage**, and Tourism;

SECTION 5634. Arkansas Code § 15–11–305 is amended to read as follows:

<< AR ST § 15–11–305 >>

15–11–305. Cooperation with other state agencies.

The State Highway Commission, the Arkansas State Game and Fish Commission, and all other state agencies are requested to cooperate and assist the Department of Parks, **Heritage**, and Tourism with respect to tourist information bureaus established under the provisions of this subchapter.

SECTION 5635. Arkansas Code § 15–11–306(a), concerning the authority to lease facilities, is amended to read as follows:

<< AR ST § 15–11–306 >>

- (a) The Department of Parks, **Heritage**, and Tourism may lease existing buildings and facilities for operation as tourist information bureaus at or near the major highway points of entry into this state and may pay the necessary cost of maintenance, upkeep, and operation of the leased buildings and facilities.

SECTION 5636. Arkansas Code § 15–11–401(1), concerning the definition of “commission” under the laws establishing regional tourist promotion agencies, is amended to read as follows:

<< AR ST § 15–11–401 >>

- (1) “Commission” means the State Parks, Recreation, and Travel Commission or the Department of Parks, **Heritage**, and Tourism or any successor agency designated by law to promote tourist travel and vacation business in Arkansas;

SECTION 5637. Arkansas Code § 15–11–401(4), concerning the definition of “tourism division” under the laws establishing regional tourist promotion agencies, is amended to read as follows:

<< AR ST § 15–11–401 >>

(4) “Tourism division” means the Tourism Division of the Department of Parks, **Heritage**, and Tourism or its successor agency.

SECTION 5638. Arkansas Code § 15–11–402(a)(1), concerning formation of a nonprofit tourist corporation, is amended to read as follows:

<< AR ST § 15–11–402 >>

(a)(1) Any group of interested citizens and residents of counties composing a natural planning region of this state and who are residents of counties representing not less than fifty percent (50%) of the total population of the region, but in no event fewer than fifteen (15) individuals, who shall form a nonprofit corporation pursuant to the provisions of the Arkansas Nonprofit Corporation Act, § ~~4–28–201~~ et seq. §§ **4–28–201 — 4–28–206 and 4–28–209 — 4–28–224**, for the purpose of promoting tourist travel and vacation business in the counties composing the natural planning region and whose charters, bylaws, and purposes are in compliance with the rules and regulations promulgated by the State Parks, Recreation, and Travel Commission or the Department of Parks, **Heritage**, and Tourism pursuant to the provisions of this subchapter may apply for recognition by the commission as a regional tourist promotion agency under this subchapter.

SECTION 5639. Arkansas Code § 15–11–403(a), concerning designation of a nonprofit tourism corporation, is amended to read as follows:

<< AR ST § 15–11–403 >>

(a) The State Parks, Recreation, and Travel Commission or the Department of Parks, **Heritage**, and Tourism, upon receipt of a copy of incorporation papers, constitution, bylaws, and resolutions, if any, of a nonprofit corporation applying for recognition as a regional tourist promotion agency under the provisions of this subchapter, is authorized to designate the applying corporation as a regional tourist promotion agency under the provisions of this subchapter, provided that the commission shall determine:

(1) That the applying agency is established under the Arkansas Nonprofit Corporation Act, § ~~4–28–201~~ et seq. §§ **4–28–201 — 4–28–206 and 4–28–209 — 4–28–224**, and has a constitution and bylaws governing the activities and purposes of the corporation which are in compliance with the rules and regulations of the commission established in furtherance of the purposes of this subchapter;

(2) That the charter, constitution, or bylaws of the applying agency provide for the selection of a board of directors and successor members on the boards, of persons who have demonstrated knowledge of and interest in the tourist travel and vacation business in the various counties composing the region to be served by the agency; and

(3) That the applying agency has furnished a proposed plan and demonstration of financial resources to establish and promote an active tourist travel and vacation business promotion program within the region as provided in this subchapter.

SECTION 5640. Arkansas Code § 15–11–404 is amended to read as follows:

<< AR ST § 15-11-404 >>

15-11-404. Administrative agency.

The Tourism Division of the Department of Parks and Tourism is designated as the administrative agency of this state to act under the authority of the State Parks, Recreation, and Travel Commission or the Department of Parks, **Heritage,** and Tourism in administering the provisions of this subchapter.

SECTION 5641. Arkansas Code § 15-11-405(b) and (c), concerning grants under the laws governing regional tourist promotion agencies, are amended to read as follows:

<< AR ST § 15-11-405 >>

(b) Upon approval of each application and the making of a grant by the State Parks, Recreation, and Travel Commission in accordance therewith, the commission or the Department of Parks, **Heritage,** and Tourism shall give notice to the applying regional tourist promotion agency of the approval and grant and shall direct the regional tourist promotion agency to proceed with its promotional program as described in its application and to use therefor funds allocated by the regional tourist promotion agency for such purposes.

(c) Upon the furnishing of evidence to the commission that the particular regional tourist promotion agency has proceeded in accordance with the terms of the application, the grant allocated to the regional tourist promotion agency shall be paid to the regional tourist promotion agency by the Tourism Division of the Department of Parks, **Heritage,** and Tourism.

SECTION 5642. Arkansas Code § 15-11-406(a), concerning grants from the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 15-11-406 >>

(a) Upon approval of the State Parks, Recreation, and Travel Commission, the Department of Parks, **Heritage,** and Tourism is authorized to make grants from funds specifically appropriated for such purposes to regional tourist promotion agencies, to assist such regional tourist promotion agencies in the financing of promotional and advertising programs, and to encourage and stimulate tourist travel and vacation business within the natural planning region.

SECTION 5643. Arkansas Code § 15-11-407(a), concerning federal funds for the State Parks, Recreation, and Travel Commission and the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 15-11-407 >>

(a) The State Parks, Recreation, and Travel Commission or the Department of Parks, **Heritage,** and Tourism is authorized to accept gifts, grants, or donations from the federal government or agencies thereof, and some private individuals, foundations, or concerns to be used in furtherance of the purposes of this subchapter.

SECTION 5644. Arkansas Code § 15-11-408(a)(2), concerning the rules to be promulgated by the State Parks, Recreation, and Travel Commission regarding the use, reversion, and reallocation of matching state funds, is amended to read as follows:

<< AR ST § 15-11-408 >>

(2) The funds available to each regional tourist promotion agency may be used for needed approved tourist promotion and advertising or research programs designed to encourage and stimulate the visitor and vacation business within the natural planning region and for operational and administrative expenses, as may have been approved by the commission or the ~~Department of Parks and Tourism~~ **Department of Parks, Heritage, and Tourism**.

SECTION 5645. Arkansas Code § 15-11-408(d), concerning the rules to be promulgated by the State Parks, Recreation, and Travel Commission regarding the use, reversion, and reallocation of matching state funds, is amended to read as follows:

<< AR ST § 15-11-408 >>

(d) In the event sufficient regional or local funds cannot be raised to match the state funds appropriated for the matching fund program by January 1 of each year, those state funds not applied for shall revert to the advertising and promotion budget of the Tourism Division of the ~~Department of Parks and Tourism~~ .

SECTION 5646. Arkansas Code § 15-11-409 is amended to read as follows:

<< AR ST § 15-11-409 >>

15-11-409. Investigations and audits.

The State Parks, Recreation, and Travel Commission or the Tourism Division of the ~~Department of Parks and Tourism~~ from time to time may make such investigations and audits and require each participating regional tourist promotion agency to furnish such evidence or proof to determine that all funds granted under the provisions of this subchapter are being handled and expended for the purposes as approved by the commission or the Department of Parks, **Heritage,** and Tourism in awarding the grant.

SECTION 5647. Arkansas Code § 15-11-602 is amended to read as follows:

<< AR ST § 15-11-602 >>

15-11-602. Administration office — Director — Duties.

(a) The Administrative Office of the Keep Arkansas Beautiful Commission shall be located within the Department of Parks, **Heritage,** and Tourism.

(b) The Director of the Administrative Office of the Keep Arkansas Beautiful Commission shall be ~~appointed by and serve at the pleasure of~~ **employed by** the ~~Director~~ **Secretary** of the Department of Parks, **Heritage,** and Tourism.

(c) The Director of the Administrative Office of the Keep Arkansas Beautiful Commission shall develop and administer all programs and projects of the Keep Arkansas Beautiful Commission and perform such other duties which the ~~Director of the Department of Parks and Tourism~~ **Secretary of the Department of Parks, Heritage, and Tourism** deems necessary and appropriate to foster and promote the awareness of all Arkansans as to the need to protect Arkansas's natural environment.

SECTION 5648. Arkansas Code § 15-11-603(10), concerning the powers and duties of the Keep Arkansas Beautiful Commission, is amended to read as follows:

<< AR ST § 15-11-603 >>

(10) Serve in an advisory capacity to the Director of the Administrative Office of the Keep Arkansas Beautiful Commission and the ~~Director of the Department of Parks and Tourism~~ **Secretary of the Department of Parks, Heritage, and Tourism**; and

SECTION 5649. Arkansas Code § 15-11-702(9), concerning the legislative findings regarding the Wildlife Observation Trails Pilot Program, is amended to read as follows:

<< AR ST § 15-11-702 >>

(9) The Department of Parks, **Heritage**, and Tourism and the Arkansas State Game and Fish Commission are interested in continuing a Wildlife Observation Trails Pilot Program to ignite interest in the natural cultural and scenic beauty and natural resources of Arkansas and to promote economic development in a healthy and environmentally sound manner.

SECTION 5650. Arkansas Code § 15-11-704(b), concerning the Wildlife Observation Trails Pilot Program, is amended to read as follows:

<< AR ST § 15-11-704 >>

(b) The program shall be developed, implemented, and administered by the Department of Parks, **Heritage**, and Tourism with the assistance of the Arkansas State Game and Fish Commission.

SECTION 5651. The introductory language of Arkansas Code § 15-11-705(a), concerning the development of a wildlife observation trail, is amended to read as follows:

<< AR ST § 15-11-705 >>

(a) To accept a wildlife observation trail into the Wildlife Observation Trails Pilot Program and be eligible to receive grant moneys under this subchapter, the Department of Parks, **Heritage**, and Tourism shall require that the wildlife observation trail:

SECTION 5652. The introductory language of Arkansas Code § 15-11-705(a)(1), concerning the development of a wildlife observation trail, is amended to read as follows:

<< AR ST § 15-11-705 >>

(1) Meet the criteria established by the department after consultation with the Wildlife Observation Trails Pilot Program Advisory Board. The criteria ~~includes~~ **shall include** without limitation:

SECTION 5653. Arkansas Code § 15-11-706 is amended to read as follows:

<< AR ST § 15-11-706 >>

15-11-706. Wildlife Observation Trails Pilot Program Advisory Board — Created.

(a)(1) There is continued an advisory body to the Department of Parks, **Heritage**, and Tourism to be known as the “Wildlife Observation Trails Pilot Program Advisory Board” to provide recommendations to the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism and the Arkansas State Game and Fish Commission to develop

criteria to establish and fund the development and maintenance of wildlife observation trails through the distribution of grant moneys under this subchapter.

(2) The board is a voluntary board that consists of seven (7) members that are appointed by the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism as follows:

- (A) One (1) representative of the Arkansas Economic Development Commission;
- (B) One (1) representative of the Arkansas State Game and Fish Commission;
- (C) One (1) representative of the Arkansas Recreation and Parks Association;
- (D) One (1) representative of the Association of Arkansas Counties;
- (E) One (1) representative of the Arkansas Game and Fish Foundation;
- (F) One (1) representative of the Arkansas Audubon Society; and
- (G) One (1) representative of the Arkansas Municipal League.

(b) The ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism shall:

- (1) Assist the board in establishing criteria consistent with § 15–11–705 by the promulgation of rules in accordance with the Arkansas Administrative Procedure Act, § 25–15–201 et seq., for recommendation of a grant for the development of a wildlife observation trail in the Wildlife Observation Trails Pilot Program; and
- (2) Seek recommendations from the board for the selection of a grant recipient.

(c) The ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism shall consult with the Director of the Arkansas State Game and Fish Commission to establish criteria for the development and maintenance of wildlife observation trails in the wildlife management areas that are managed by the Arkansas State Game and Fish Commission.

SECTION 5654. Arkansas Code § 15–11–707(b)(1), concerning funding for the Wildlife Observation Trails Pilot Program, is amended to read as follows:

<< AR ST § 15–11–707 >>

(b)(1) The Department of Parks, **Heritage**, and Tourism and the commission agree to execute a memorandum of understanding to delineate each party's participation, obligation, and cooperation in the program sufficient to fulfill the requirements of this subchapter.

SECTION 5655. Arkansas Code § 15–11–708 is amended to read as follows:

<< AR ST § 15–11–708 >>

15–11–708. Grant distribution.

(a)(1) A grant application under this subchapter that meets the criteria under § 15–11–705 shall be submitted to the Wildlife Observation Trails Pilot Program Advisory Board by the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism for review and comment.

(2) The board shall recommend grants for approval by the ~~director~~ **secretary**.

(3) The ~~director~~ **secretary** shall designate the grant recipients that are eligible for moneys under this subchapter and notify the Arkansas State Game and Fish Commission of the grant recipients.

(b) The commission agrees to receive grant designations submitted by the ~~director~~ **secretary** and approve distribution of moneys annually to eligible grant recipients in the Wildlife Observation Trails Pilot Program as follows:

(1) A maximum of eighty percent (80%) of the moneys for grants for wildlife observation trail development to cities or counties; and

(2) A maximum of twenty percent (20%) of the moneys for grants for wildlife observation trail development to state agencies or nonprofit organizations.

SECTION 5656. Arkansas Code § 15–11–709(a), concerning reporting on the Wildlife Observation Trails Pilot Program, is amended to read as follows:

<< AR ST § 15–11–709 >>

(a) The Arkansas State Game and Fish Commission and the Department of Parks, **Heritage**, and Tourism shall report the status of the Wildlife Observation Trails Pilot Program biannually to the Game and Fish/State Police Subcommittee of the Legislative Council and the Parks and Tourism Subcommittee of the Joint Budget Committee.

SECTION 5657. Arkansas Code § 15–11–802 is amended to read as follows:

<< AR ST § 15–11–802 >>

15–11–802. Arkansas Great Places Program — Creation.

(a) The Department of ~~Arkansas Heritage~~ **Parks, Heritage, and Tourism** shall administer and establish the Arkansas Great Places Program to:

(1) Provide planning and financial assistance to eligible organizations for community development; and

(2) Combine resources of state government in an effort to showcase the unique and authentic qualities of communities, regions, neighborhoods, and districts that make those locations exceptional places to work and live.

(b) The Arkansas Economic Development Commission ~~and the Department of Parks and Tourism~~ shall provide assistance to the ~~Department of Arkansas Heritage~~ **Department of Parks, Heritage, and Tourism** in administering and establishing the program.

SECTION 5658. Arkansas Code § 15–11–803(b), concerning the definitions and eligibility for the Arkansas Great Places Program, is amended to read as follows:

<< AR ST § 15–11–803 >>

(b)(1) An eligible organization may apply to the ~~Department of Arkansas Heritage~~ **Department of Parks, Heritage, and Tourism** for participation in the Arkansas Great Places Program.

(2) The department shall forward applications for participation in the program to the Arkansas Natural and Cultural Heritage Advisory Committee to select applicants for participation in the program.

SECTION 5659. Arkansas Code § 15–11–804(c), concerning selection for the Arkansas Great Places Program, is amended to read as follows:

<< AR ST § 15–11–804 >>

(c) The ~~Department of Arkansas Heritage~~ **Department of Parks, Heritage, and Tourism** shall work with the Arkansas Economic Development Commission to maximize grants awarded to participants in the program.

SECTION 5660. Arkansas Code § 15–12–101(a)(1) and (2), concerning the creation, members, and meetings of the Arkansas Natural and Cultural Resources Council, are amended to read as follows:

<< AR ST § 15–12–101 >>

(1) The ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism **or his or her designee**;

(2) The Director of the ~~Department~~ **Division** of Arkansas Heritage **or his or her designee**;

SECTION 5661. Arkansas Code § 15–12–101(b)(1), concerning the creation, members, and meetings of the Arkansas Natural and Cultural Resources Council, is amended to read as follows:

<< AR ST § 15–12–101 >>

(1)(A) The ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism, **or his or her designee**, the Director of the ~~Department~~ **Division** of Arkansas Heritage, **or his or her designee**, the Chair of the State Parks, Recreation, and Travel Commission or his or her designee, and the Chair of the Arkansas Natural Heritage Commission or his or her designee may receive expense reimbursement for attending meetings of the council as provided by § 25–16–902.

(B) Expense reimbursement under subdivision (b)(1)(A) of this section shall be paid from funds appropriated for the support of the Department of Parks, **Heritage**, and Tourism, the ~~Department~~ **Division** of Arkansas Heritage, the State Parks, Recreation, and Travel Commission, and the Arkansas Natural Heritage Commission, respectively; and

SECTION 5662. Arkansas Code § 15–12–101(b)(2)(B), concerning the creation, members, and meetings of the Arkansas Natural and Cultural Resources Council, is amended to read as follows:

<< AR ST § 15–12–101 >>

(B) Expense reimbursement under subdivision (b)(2)(A) of this section shall be paid from funds appropriated for the support of the ~~Department of Arkansas Heritage~~ **Department of Parks, Heritage, and Tourism**.

SECTION 5663. Arkansas Code § 15–12–101(d)(2), concerning the creation, members, and meetings of the Arkansas Natural and Cultural Resources Council, is amended to read as follows:

<< AR ST § 15–12–101 >>

(2) The ~~Director~~ **Secretary** of the ~~Department of Arkansas Heritage~~ **Department of Parks, Heritage, and Tourism** shall serve as Secretary of the Arkansas Natural and Cultural Resources Council and shall serve as disbursing officer of any funds appropriated for or administered by the council.

SECTION 5664. Arkansas Code § 15-14-108 is amended to read as follows:

<< AR ST § 15-14-108 >>

15-14-108. Rules and regulations.

The Arkansas Association of Development Organizations, Inc., after having received input from the Department of Parks, **Heritage**, and Tourism, ~~the Department of Arkansas Heritage~~, and the Arkansas Economic Development Commission, shall promulgate rules and regulations to implement this chapter.

SECTION 5665. Arkansas Code § 15-20-705(a), concerning additional duties of the State Parks, Recreation, and Travel Commission and the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 15-20-705 >>

(a) The State Parks, Recreation, and Travel Commission and the Department of Parks, **Heritage**, and Tourism shall have the following duties in addition to those otherwise prescribed by law:

- (1) To identify and maintain a registry of lands and waters in the state, whether publicly or privately owned, that exhibit outstanding characteristics of scenic beauty;
- (2) To cooperate with any federal, state, or local government agency, private organization, or individual;
- (3) To investigate, promote, advise, and assist in the preservation, protection, enhancement, and management of scenic resources;
- (4) To encourage private organizations and individuals to recognize scenic resources and to utilize “best management practices” in all instances, particularly those affecting scenic resources;
- (5) To encourage scenic resources protection by working with agencies and individuals to set up demonstration projects involving such techniques as wildflower plots, adopt-a-spot programs, wetlands restoration, and native plantings wherever possible;
- (6) To notify federal agencies of the state's interest in protecting scenic resources and to request that scenic resources protection and enhancement be included in the appropriate planning activities of the agencies;
- (7) By December 1 of each year, submit a report to the ~~Governor~~ **Secretary of the Department of Parks, Heritage, and Tourism** and the General Assembly describing and accounting for the status and condition of each entry listed in the Registry of Scenic Resources and including any recommendations to be considered by the **secretary** and General Assembly for improving and enhancing the scenic beauty of the state; and
- (8) To bring the Registry of Scenic Resources to the attention of the public through its advertising and public relations efforts.

SECTION 5666. Arkansas Code § 15-20-706(c) and (d), concerning the Registry of Scenic Resources are amended to read as follows:

<< AR ST § 15-20-706 >>

(c) The registry shall be maintained by the Department of Parks, **Heritage**, and Tourism.

(d) The registry shall be prepared in a manner which will enable the ~~Department~~ **Division** of Arkansas Heritage to include registry records in its environmental review procedures.

SECTION 5667. Arkansas Code § 15-45-302(a)(2), concerning creation of the Nongame Preservation Committee, is amended to read as follows:

<< AR ST § 15-45-302 >>

(2) The Director of the State Parks Division ~~of the Department of Parks and Tourism~~ ; and

SECTION 5668. Arkansas Code § 19-5-206(a)(2)(B), concerning service charges against state agencies, is amended to read as follows:

<< AR ST § 19-5-206 >>

(B) "State agency" shall not include the office of the Commissioner of State Lands or the Department of Parks, **Heritage**, and Tourism.

SECTION 5669. Arkansas Code § 19-5-206(b), concerning service charges against state agencies, is amended to read as follows:

<< AR ST § 19-5-206 >>

(b) Each state agency, whose annual income or revenue as reflected by the previous fiscal year's audit exceeds twenty-five thousand dollars (\$25,000), shall remit by check on the first day of each calendar quarter to the Treasurer of State an amount equal to one and one-half percent (1 1/2%) of the total expenditures of the previous calendar quarter from those cash funds as defined under § 19-4-801, excluding funds received from the federal government or those held in trust by the state agency or those funds of the various state retirement systems. Funds received by the ~~Department~~ **Division** of Arkansas Heritage from voluntary donations shall also be excluded. In the event that a state agency elects to deposit its cash funds into the State Treasury under the provisions of § 19-4-503, then the amount required under this section shall be transferred from the state agency's treasury fund to the State Central Services Fund.

SECTION 5670. Arkansas Code § 19-5-956(b), concerning the establishment of the Tourism Development Trust Fund, is amended to read as follows:

<< AR ST § 19-5-956 >>

(b) The fund shall consist of those special revenues as specified in § 19-6-301(146) and fifty percent (50%) of those special revenues as specified in § 19-6-301(262), there to be used by the Department of ~~Parks and Tourism~~ **Commerce** exclusively for the promotion of wine tourism in Arkansas.

SECTION 5671. Arkansas Code § 19–5–1001(b) and (c), concerning the establishment of the Publication Development and Resale Revolving Fund, are amended to read as follows:

<< AR ST § 19–5–1001 >>

(b) The fund shall consist of income derived from the sale of publications by the ~~Department~~ **Division** of Arkansas Heritage or its successor, there to be used to develop or purchase additional publications for resale.

(c) The fund shall be administered by the Central Administration Division of the Department of ~~Arkansas Heritage~~ **Parks, Heritage, and Tourism** or its successor.

SECTION 5672. Arkansas Code § 19–5–1051(b), concerning the establishment of the Parks and Tourism Outdoor Recreation Grants Fund, is amended to read as follows:

<< AR ST § 19–5–1051 >>

(b) The fund shall consist of ten percent (10%) of those special revenues as specified in § 19–6–301(145), there to be used by the Department of Parks, **Heritage**, and Tourism for making grants for outdoor recreational purposes to cities and counties of this state in accordance with the **Arkansas** Statewide Comprehensive Outdoor Recreation Plan as set out in § 15–12–103.

SECTION 5673. Arkansas Code § 19–5–1245 is amended to read as follows:

<< AR ST § 19–5–1245 >>

19–5–1245. Arkansas Great Places Program Fund.

(a) The ~~Department~~ **Division** of Arkansas Heritage may establish in a bank authorized to do business in this state and selected by the ~~department~~ **division** a revolving cash fund entitled “Arkansas Great Places Program Fund” into which the ~~department~~ **division** shall deposit all funds received as matching funds from eligible organizations participating in the Arkansas Great Places Program under § 15–11–801 et seq.

(b) The ~~department~~ **division** may receive gifts, grants, bequests, devises, and donations made to the ~~department~~ **division**, amounts received as matching funds from eligible organizations participating in the Arkansas Great Places Program under § 15–11–801 et seq., and any other funds authorized by law to be used in the furtherance of the purposes of the Arkansas Great Places Program under § 15–11–801 et seq.

(c) In addition, the ~~department~~ **division** may accept gifts, grants, or donations from the federal government or agencies thereof, and private individuals, foundations, or concerns to be used for the purposes of the Arkansas Great Places Program under § 15–11–801 et seq.

SECTION 5674. Arkansas Code § 19–6–426 is amended to read as follows:

<< AR ST § 19–6–426 >>

19–6–426. Arkansas Museum of Natural Resources Fund.

The Arkansas Museum of Natural Resources Fund shall consist of those special revenues as specified in § 19–6–301(61) and (101), there to be used for the construction, maintenance, operation, and improvement of the Arkansas Museum of Natural Resources in exercising the powers, functions, and duties as set out in § 13–5–401 et seq., and for paying

the expenses of administering such funds by the department **Department** of Parks, **Heritage**, and Tourism as may be authorized by law.

SECTION 5675. Arkansas Code § 19–6–484(3)(B) and (C), concerning the Conservation Tax Fund, are amended to read as follows:

<< AR ST § 19–6–484 >>

(B) Forty-five percent (45%) to the Department of Parks, **Heritage**, and Tourism Fund Account to be used by the Department of Parks, **Heritage**, and Tourism for state park purposes as appropriated by the General Assembly;

(C) Nine percent (9%) to the Arkansas ~~Department~~ **Division** of Heritage Fund Account to be used exclusively by the ~~Department~~ **Division** of Arkansas Heritage as appropriated by the General Assembly; and

SECTION 5676. Arkansas Code § 19–6–818(a), concerning the Wildlife Observation Trail Fund, is amended to read as follows:

<< AR ST § 19–6–818 >>

(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 “Wildlife Observation Trail Fund” administered by the Department of Parks, **Heritage**, and Tourism.

SECTION 5677. Arkansas Code § 19–6–833 is amended to read as follows:

<< AR ST § 19–6–833 >>

19–6–833. Arkansas ~~Department~~ Division of Heritage Special 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 “Arkansas ~~Department~~ t²⁰ **Division** of Heritage **Special** 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)(C); and

(2) Any other funds authorized or provided by law.

(c) The fund shall be used exclusively by the ~~Department~~ **Division** of Arkansas Heritage as appropriated by the General Assembly.

SECTION 5678. Arkansas Code § 19–6–834 is amended to read as follows:

<< AR ST § 19–6–834 >>

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 5679. Arkansas Code § 22–2–103(b), concerning the applicability of the Building Authority Division Act to other laws, is amended to read as follows:

<< AR ST § 22–2–103 >>

(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 5680. Arkansas Code § 22–3–303(e), concerning the Capitol Zoning District Commission, is amended to read as follows:

<< AR ST § 22–3–303 >>

(e)(1) The commission is authorized to employ a director *in consultation with the Secretary of the Department of Parks, **Heritage, and Tourism*** and such other staff as the commission deems appropriate and within legislative appropriation.

(2) The commission shall have the authority to enter into contracts of any lawful nature, and to do any and all acts necessary to effect the purposes of this subchapter.

SECTION 5681. Arkansas Code § 22–3–310(a)(1)(A), concerning an appeal of a Capital Zoning District Commission action by an aggrieved person, is amended to read as follows:

<< AR ST § 22–3–310 >>

(a)(1)(A) Any person aggrieved by any rule, regulation, decision, or order of the Capitol Zoning District Commission may appeal the action to the ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism**.

SECTION 5682. Arkansas Code § 22–3–502(a)(2)(D), concerning the creation and members of the Capitol Arts and Grounds Commission, is amended to read as follows:

<< AR ST § 22-3-502 >>

(D) The ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism;

SECTION 5683. Arkansas Code § 22-3-804(a)(3), concerning the creation, members, and proceedings of the Arkansas Governor's Mansion Commission, is amended to read as follows:

<< AR ST § 22-3-804 >>

(3) The ~~Director of the Department of Arkansas Heritage~~ **Secretary of the Department of Parks, Heritage, and Tourism** or his or her designee shall serve as an ex officio voting member of the commission.

SECTION 5684. Arkansas Code § 22-3-1001(a)(1), concerning the creation of the War Memorial Stadium Commission, is amended to read as follows:

<< AR ST § 22-3-1001 >>

(a)(1) There is created within the Department of Parks, **Heritage**, and Tourism the War Memorial Stadium Commission consisting of eight (8) members to be appointed by the Governor with the advice and consent of the Senate.

SECTION 5685. Arkansas Code § 22-3-1001(i) and (j), concerning the creation, members, and meetings of the War Memorial Stadium Commission, are amended to read as follows:

<< AR ST § 22-3-1001 >>

(i) The Governor shall designate a member of the commission as Chair of the War Memorial Stadium Commission, and the member so designated shall serve as chair at the pleasure of the Governor with advice from the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism.

(j)(1) All meetings of the commission shall be held on call by the chair with the consent of the ~~director~~ **secretary**, or by any four (4) or more members with the consent of the ~~director~~ **secretary**, on advance notice to each member and at such place as in each instance may suit the commission's and the ~~director's~~ **secretary's** convenience.

(2) All meetings under subdivision (j)(1) of this section shall be open to the public, and complete records of the proceedings shall be kept.

SECTION 5686. Arkansas Code § 22-3-1001(k)(2), concerning the creation, members, and meetings of the War Memorial Stadium Commission, is amended to read as follows:

<< AR ST § 22-3-1001 >>

(2) An action agreed to by the commission under subdivision (k)(1) of this section is subject to the approval of the ~~director~~ **secretary**.

SECTION 5687. Arkansas Code § 22-3-1002(a)(1), concerning the powers and duties of the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 22-3-1002 >>

(a)(1) The Department of Parks, **Heritage**, and Tourism has and is subject to the powers and duties conferred or imposed upon the department by this subchapter concerning the War Memorial Stadium Commission.

SECTION 5688. Arkansas Code § 22-3-1010 is amended to read as follows:

<< AR ST § 22-3-1010 >>

22-3-1010. Audit of accounts — Reports.

An audit of the records and accounts of the Department of Parks, **Heritage**, and Tourism concerning the War Memorial Stadium Commission shall be made each year, and a copy of the report shall be filed with the Legislative Council, the Governor, and the Chief Fiscal Officer of the State.

SECTION 5689. Arkansas Code § 22-3-1011(a)-(c), concerning the establishment of bank accounts by the Department of Parks and Tourism, are amended to read as follows:

<< AR ST § 22-3-1011 >>

(a) The ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism on behalf of the War Memorial Stadium Commission may open accounts in the name of the Department of Parks, **Heritage**, and Tourism in one (1) or more banks and deposit into those bank accounts all moneys received from the sale of the Department of Parks, **Heritage**, and Tourism's bonds and from admissions, fees, concessions, rents, and other charges collected for the use of War Memorial Stadium or from any other source.

(b) From the bank accounts, the Department of Parks, **Heritage**, and Tourism on behalf of the commission may withdraw funds for payment of the following:

- (1) Cost of the construction of War Memorial Stadium;
- (2) Expenses of the commission's members;
- (3) Salaries of a custodian, groundskeepers, and such other personnel as the Department of Parks, **Heritage**, and Tourism may employ;
- (4) Insurance premiums for fire, lightning, and tornado insurance;
- (5) Such other items of reasonable expense as, in the opinion of the Department of Parks, **Heritage**, and Tourism with advice from the commission, may be required to maintain and operate War Memorial Stadium; and
- (6) Amounts paid contesting colleges or schools.

(c)(1) All withdrawals of funds in the bank accounts shall be made by use of voucher-checks, the form of which shall be prescribed by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

(2) All voucher-checks so drawn are subject to preaudit by the ~~Director~~ **Secretary** of the Department of Finance and Administration.

SECTION 5690. Arkansas Code § 22-4-103(1)(B), concerning the powers of the State Parks, Recreation, and Travel Commission, is amended to read as follows:

<< AR ST § 22-4-103 >>

(B) If the Department of Parks, **Heritage**, and Tourism is unable to agree with the owner of the land, or if by legal incapacity or absence of the owner, no agreement can be made for the purchase, the land may be acquired by condemnation proceedings instituted in the name of the state in the manner provided by law for the condemnation of property for public purposes.

SECTION 5691. Arkansas Code § 22-4-103(3), concerning the powers of the State Parks, Recreation, and Travel Commission, is amended to read as follows:

<< AR ST § 22-4-103 >>

(3) To apply to the Commissioner of State Lands for the transfer of any state-owned land or land the title to which has reverted to the state by reason of tax delinquency and which is deemed by the Department of Parks, **Heritage**, and Tourism as suitable and desirable for park and recreational purposes. The Commissioner of State Lands is authorized and directed to make such transfers which shall operate as an appropriation of the land for park and recreational purposes forever and shall be a bar to any grants by the state of the land so transferred or of any interest in it for any purpose whatsoever;

SECTION 5692. Arkansas Code § 22-4-103(8), concerning the powers of the State Parks, Recreation, and Travel Commission, is amended to read as follows:

<< AR ST § 22-4-103 >>

(8) To appoint local and regional park and recreational councils to consider, study, and advise in the work of the commission for the extension, development, use, and maintenance of the parks for which appointed. The Chair of the State Parks, Recreation, and Travel Commission and the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism shall be ex officio members of all councils so appointed; and

SECTION 5693. Arkansas Code § 22-4-105(a), concerning the leasing powers of the Department of Parks and Tourism, is amended to read as follows:

<< AR ST § 22-4-105 >>

(a) The Department of Park, **Heritage**, and Tourism, in addition to any other powers granted in this chapter, shall have the sole authority to lease state park lands to private companies and to authorize the lessees to construct, maintain, and operate overnight accommodation facilities, recreational facilities, and the other major facilities which the department may deem appropriate.

SECTION 5694. Arkansas Code § 22-4-106(a), concerning the procedure for establishing and acquiring property for state parks, is amended to read as follows:

<< AR ST § 22-4-106 >>

(a) The Department of Parks, **Heritage**, and Tourism and the State Parks, Recreation, and Travel Commission are directed to consult with and seek the advice of the Governor, the ~~Director~~ **Secretary** of the Department of Finance and Administration, and the Legislative Council before establishing and acquiring properties for new state parks or before making acquisitions of real property for additions to or expansions of existing state parks which have not been specifically authorized or funded by the General Assembly.

SECTION 5695. Arkansas Code § 22-4-109(a), concerning the acquisition of land for hiking trails, is amended to read as follows:

<< AR ST § 22-4-109 >>

(a) The Department of Parks, **Heritage**, and Tourism is authorized to acquire, by purchase, gift, or devise, interest in real property less than fee interest, including, but not limited to, easements for the purpose of establishing trails for public hiking and for related purposes over lands contiguous to lands controlled by the department.

SECTION 5696. Arkansas Code § 22-4-403 is amended to read as follows:

<< AR ST § 22-4-403 >>

22-4-403. Administration of Arkansas Trails System.

A statewide trails system to be called the “Arkansas Trails System” is authorized to be administered by the State Parks Division ~~of the Department of Parks and Tourism~~ . The administration shall include:

- (1) Coordination of trail development between state, federal, county, municipal, and private entities;
- (2) Development of a wide variety of types of trails to provide maximum trail opportunities for the citizens of Arkansas;
- (3) Establishment of an interconnected trails system by developing new trails or by connecting existing trails or recreation areas;
- (4) Encouraging the development of trails in or near population centers;
- (5) Providing technical assistance for trail development and maintenance; and
- (6) Providing information about Arkansas trails.

SECTION 5697. Arkansas Code § 22-4-404(a), concerning the creation, powers, and duties of the Arkansas Trails Council, is amended to read as follows:

<< AR ST § 22-4-404 >>

(a) An advisory body to the State Parks Division ~~of the Department of Parks and Tourism~~ to be known as the “Arkansas Trails Council”, is created for the purpose of informing the ~~division~~ **State Parks Division**, other trail-providing agencies, and the public at large of public need, use, and ongoing and planned trail development and to provide a public forum for discussion of trail-related issues.

SECTION 5698. Arkansas Code § 22-4-404(c), concerning the creation, power, and duties of the Arkansas Trails Council, is amended to read as follows:

<< AR ST § 22-4-404 >>

(c) The Department of Parks, **Heritage**, and Tourism's representative on the council shall serve as the council's executive secretary.

SECTION 5699. Arkansas Code § 22-4-405 is amended to read as follows:

<< AR ST § 22-4-405 >>

22-4-405. Criteria for acceptance into Arkansas Trails System.

Trails accepted into the Arkansas Trails System shall meet criteria as established by the Arkansas Trails Council and the State Parks Division of the ~~Department of Parks and Tourism~~ , which shall include:

- (1) A guaranteed right-of-way for public use for a minimum period of five (5) years;
- (2) Trail operation and maintenance for a minimum period of five (5) years by an acceptable responsible organization;
- (3) Adherence to state trails standards and guidelines for the trail type designated;
- (4) Readiness of the trail for public use;
- (5) Proper marking and signing; and
- (6) Conformity of the trail with goals established in the Statewide Comprehensive Outdoor Recreation Plan or the Arkansas Trails Plan. G

SECTION 5700. Arkansas Code § 24-4-727(e), concerning War Memorial Stadium Commission employees, is amended to read as follows:

<< AR ST § 24-4-727 >>

(e) The Department of Parks, **Heritage**, and Tourism on behalf of the commission shall pay into the fund such sums of money as are necessary to match the contributions of its employees in the same form and manner as other public employers and shall be subject to all the provisions of this chapter, to the same extent as other public employers.

SECTION 5701. Arkansas Code § 25-1-205(b)(5), concerning filing copies of distributed state agency publications with the Legislative Council, is amended to read as follows:

<< AR ST § 25-1-205 >>

- (5) Promotional brochures and educational materials published by the Department of Parks, **Heritage**, and Tourism;

SECTION 5702. Arkansas Code § 25-3-101(b), concerning the legislative intent creating the Department of Arkansas Heritage, is amended to read as follows:

<< AR ST § 25-3-101 >>

(b) It is the intent of the General Assembly to provide for an orderly transfer of powers, duties, and functions of the various state programs or agencies to the Department of Arkansas Heritage **or Division of Arkansas Heritage** with a minimum of disruption of governmental services and functions and with a minimum of expense.

SECTION 5703. Arkansas Code § 25–3–102 is amended to read as follows:

<< AR ST § 25–3–102 >>

25–3–102. Creation — Director — Organization — Personnel.

(a) There is created a ~~Department~~ **Division** of Arkansas Heritage.

(b)(1) The executive head of the ~~department~~ **division** shall be the Director of the ~~Department~~ **Division** of Arkansas Heritage.

(2) The director shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.

(3) The director shall report to the Secretary of the Department of Parks, Heritage, and Tourism.

(c) The director, with the advice and consent of the Governor **and the secretary**, shall appoint the heads of each of the programs and agencies of the ~~department~~ **division**. All other personnel of the ~~department~~ **division** shall be employed by and serve at the pleasure of the director. However, nothing in this section shall be so construed as to reduce any right which an employee of the ~~department~~ **division** shall have under any civil service or merit system.

(d) Each agency or program of the ~~department~~ **division** shall be under the direction, control, and supervision of the ~~department~~ **division**. The director may delegate his or her functions, powers, and duties to the head of any agency or program of the ~~department~~ **division** as he or she shall deem desirable and necessary for the effective and efficient operation of the ~~department~~ **division**.

SECTION 5704. Arkansas Code § 25–3–104(a), concerning the creation of the Arkansas Natural and Cultural Heritage Advisory Committee, is amended to read as follows:

<< AR ST § 25–3–104 >>

(a) There is established an Arkansas Natural and Cultural Heritage Advisory Committee whose members shall consist of:

- (1) The Director of the ~~Department~~ **Division** of Arkansas Heritage;
- (2) The ~~Executive~~ Director of the Arkansas Economic Development Commission;
- (3) The Director of State Highways and Transportation;
- (4) The ~~Director~~ **Secretary** of the Department of Health;
- (5) The ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism;
- (6) The Director of the Arkansas State Game and Fish Commission;
- (7) A person appointed by the Governor;
- (8) A person appointed by the President Pro Tempore of the Senate; and
- (9) A person appointed by the Speaker of the House of Representatives.

SECTION 5705. Arkansas Code § 25–3–105(a), concerning fees for publications, seminars and other educational materials, is amended to read as follows:

<< AR ST § 25–3–105 >>

(a) The ~~Department~~ **Division** of Arkansas Heritage through its ~~a~~ Central Administration Division or any successor division is authorized to establish and impose reasonable fees to recover costs incurred in the preparation and distribution of educational published materials and in holding workshops and seminars and costs of other services rendered.

SECTION 5706. Arkansas Code § 25–3–106(a), concerning the Publication Development and Resale Revolving Fund, is amended to read as follows:

<< AR ST § 25–3–106 >>

(a) There is established a fund to be known as the Publication Development and Resale Revolving Fund for the ~~Department~~ **Division** of Arkansas Heritage. This fund shall be located in the Central Administration Division of the ~~Department~~ **Division** of Arkansas Heritage and shall be managed by the ~~division~~ **Central Administration Division** for the benefit of the various agencies located within the ~~department~~ **Division of Arkansas Heritage**. This fund shall be a revolving fund.

SECTION 5707. Arkansas Code § 25–3–108 is amended to read as follows:

<< AR ST § 25–3–108 >>

25–3–108. Heritage foundation.

(a) In addition to any other rights, powers, functions, and duties granted by law to the ~~Department~~ **Division** of Arkansas Heritage, the ~~department~~ **division** is hereby authorized to promote and cooperate in the establishment of a heritage foundation under the Arkansas nonprofit corporation law, to share resources and facilities with the foundation, and to accept support and assistance in the form of money, property, or otherwise from the foundation to be used to preserve and promote the heritage of the state.

(b) If a heritage foundation is established and the ~~department~~ **division** shares resources or facilities with the foundation or accepts support and assistance from the foundation, the foundation shall annually file a report with the Governor, the Legislative Council, and the Legislative Joint Auditing Committee showing the amount and source of all gifts, grants, and donations of money or property received by the foundation and all expenditures or other dispositions of money or property by the foundation during the preceding year.

(c) On or before July 1 of each fiscal year, the Director of the ~~Department~~ **Division** of Arkansas Heritage shall submit a plan to the Legislative Council reflecting the proposed uses of private funds for the ensuing fiscal year for its review and comment. No person over whom the ~~department~~ **division** has day-to-day managerial control shall receive compensation or remuneration from funds not in the State Treasury.

SECTION 5708. Arkansas Code Title 25, Chapter 13, is repealed.

Chapter 13

Department of Parks and Tourism

Subchapter 1—General Provisions

<< Repealed: AR ST § 25-13-101 >>

~~25-13-101. Creation — Director — Organization — Personnel.~~

~~(a) There is created a Department of Parks and Tourism.~~

~~(b) The executive head of the department shall be the Director of the Department of Parks and Tourism. 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 constituted the State Parks, Recreation, and Travel Commission 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 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 shall 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.~~

<< Repealed: AR ST § 25-13-102 >>

~~25-13-102. 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 Director of the Department of Parks and Tourism, with the advice and consent of the Governor and the Chairman of the national Mississippi River Parkway Planning Commission, shall appoint the head of the Great River Road Division of the Department of Parks and Tourism.~~

<< Repealed: AR ST § 25-13-103 >>

~~25-13-103. Payment of gratuities.~~

~~The Department of Parks 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.~~

<< Repealed: AR ST § 25-13-104 >>

~~25-13-104. Extra help restriction.~~

~~No employee of the State Parks Division of the Department of Parks and Tourism 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 5709. Arkansas Code § 26-26-720 is amended to read as follows:

<< AR ST § 26-26-720 >>

26-26-720. Correcting descriptions already on books.

The Attorney General is authorized to have corrected any part of the description of lands on the books of the Commissioner of State Lands in the manner provided. This authority shall be exercised upon the application of any applicant to purchase or upon application by the Department of Parks, **Heritage**, and Tourism, the Arkansas Forestry Commission, or the Arkansas State Game and Fish Commission.

SECTION 5710. Arkansas Code § 26-51-2203(3), concerning the definition of “certification of completion” under the Arkansas Historic Rehabilitation Income Tax Credit Act, is amended to read as follows:

<< AR ST § 26-51-2203 >>

(3) “Certification of completion” means a certificate issued by the ~~Department~~ **Division** of Arkansas Heritage certifying that a project is a certified rehabilitation of an eligible property that qualifies for the Arkansas historic rehabilitation income tax credit;

SECTION 5711. Arkansas Code § 26-51-2203(7), concerning the definition of “certification of completion” under the Arkansas Historic Rehabilitation Income Tax Credit Act, is amended to read as follows:

<< AR ST § 26-51-2203 >>

(7) “Owner” means a person or an entity that owns eligible property and is the initial recipient of the certification of completion from the ~~department~~ **division**;

SECTION 5712. Arkansas Code § 26-51-2204(c)(1), concerning the Arkansas historic rehabilitation income tax credit, is amended to read as follows:

<< AR ST § 26-51-2204 >>

(c)(1) The ~~Department~~ **Division** of Arkansas Heritage shall only issue Arkansas historic rehabilitation income tax credits for up to four million dollars (\$4,000,000) in any one (1) fiscal year.

SECTION 5713. Arkansas Code § 26-51-2204(e)-(h), concerning the Arkansas historic rehabilitation income tax credit, are amended to read as follows:

<< AR ST § 26-51-2204 >>

(e) Upon completion of a rehabilitation, the owner shall submit documentation required by the ~~department~~ **division** to verify that the completed rehabilitation qualifies as a certified rehabilitation.

(f) If the department **division** determines that a rehabilitation qualifies as a certified rehabilitation and that the certified rehabilitation is complete, the department **division** shall issue a freely transferable certification of completion specifying the total amount of the qualified rehabilitation expenses and Arkansas historic rehabilitation income tax credit allowed.

(g)(1) If the owner requests a review of the department **division** determination under subsection (f) of this section, the owner shall submit a written request for review of the determination.

(2) The owner shall submit the request in writing to the department **division** within thirty (30) days of the date of notification to the owner of the determination.

(h)(1) The owner shall certify to the department **division** the validity of costs and expenses claimed as qualified rehabilitation expenses and shall maintain a record supporting the claim for at least five (5) years after the issuance of the certification of completion.

(2) An owner's record supporting a claim for qualified rehabilitation expenses may be reviewed by the department **division**, the appropriate tax collection authority, or a holder.

SECTION 5714. Arkansas Code § 26-51-2205(h), concerning the procedure to claim a tax credit and transferring credit, is amended to read as follows:

<< AR ST § 26-51-2205 >>

(h) An owner or holder that assigns part or all of an Arkansas historic rehabilitation income tax credit shall perfect the transfer by notifying the Department **Division** of Arkansas Heritage and the appropriate tax collection authority in writing within thirty (30) calendar days following the effective date of the transfer and shall provide any information as may be required by the department **division** and the appropriate tax collection authority to administer and carry out this subchapter and to ensure proper tracking of the ownership of the unused Arkansas historic rehabilitation income tax credit.

SECTION 5715. Arkansas Code § 26-51-2206(a)(1), concerning fees charged by the Department of Arkansas Heritage, is amended to read as follows:

<< AR ST § 26-51-2206 >>

(a)(1) The Department **Division** of Arkansas Heritage may charge a fee to process:

(A) An application for an Arkansas historic rehabilitation income tax credit; and

(B) A request to record transfers of interests in an Arkansas historic rehabilitation income tax credit to other holders.

SECTION 5716. Arkansas Code § 26-51-2206(b), concerning fees charged by the Department of Arkansas Heritage, is amended to read as follows:

<< AR ST § 26-51-2206 >>

(b) A fee collected under this subchapter by the department **division** shall be considered cash funds of the department **division** and shall be used for the administration of this subchapter.

SECTION 5717. Arkansas Code § 26–51–2207 is amended to read as follows:

<< AR ST § 26–51–2207 >>

26–51–2207. Rules.

(a) The ~~Department~~ **Division** of Arkansas Heritage shall promulgate rules to implement this subchapter that shall include criteria for the prioritizing of the rehabilitation applications and that will stimulate the local economy where the property is located, including without limitation the criteria that the rehabilitation project will be prioritized in the following order:

- (1) Result in the creation of a new business;
- (2) Result in the expansion of an existing business;
- (3) Establish or contribute to the establishment of a tourism attraction as defined by the Department of Parks, **Heritage**, and Tourism;
- (4) Contribute to the revitalization of a specific business district; or
- (5) Be a key property in the revitalization of a specific neighborhood.

(b) The ~~Department~~ **Division** of Arkansas Heritage shall consult with the Department of Finance and Administration, the Arkansas Economic Development Commission, and the State Insurance Department in promulgating rules under this subchapter.

(c) The Department of Parks, **Heritage**, and Tourism shall promulgate rules to define a “tourism attraction” as provided in subdivision (a)(3) of this section.

SECTION 5718. Arkansas Code § 26–57–604(c)(1), concerning the remittance of tax, is amended to read as follows:

<< AR ST § 26–57–604 >>

(c)(1) In addition to any premium tax credit not related to the same eligible property for which an insurer qualifies under subsection (a) of this section, there is allowed a premium tax credit for the amount of the Arkansas historic rehabilitation income tax credit allowed by the certification of completion issued by the ~~Department~~ **Division** of Arkansas Heritage under the Arkansas Historic Rehabilitation Income Tax Credit Act, § 26–51–2201 et seq.

SECTION 5719. Arkansas Code § 26–63–405(c), concerning the Tourism Development Trust Fund, is amended to read as follows:

<< AR ST § 26–63–405 >>

(c) All revenues collected under this subchapter and credited to the fund shall be used by the Department of Parks, **Heritage**, and Tourism exclusively for the promotion of tourism in Arkansas.

SECTION 5720. Arkansas Code § 27–24–1601 is amended to read as follows:

<< AR ST § 27–24–1601 >>

27–24–1601. Purpose.

The purpose of this subchapter is to:

- (1) Authorize the design and issuance of license plates featuring state parks for the Department of Parks, **Heritage**, and Tourism;
- (2) Provide funding to a cash fund to be used by the Department of Parks, **Heritage**, and Tourism for sponsoring college scholarships in the state parks profession and the state parks education programs; and
- (3) Authorize the Department of Finance and Administration to issue, renew, and replace the license plates authorized for the Department of Parks, **Heritage**, and Tourism.

SECTION 5721. Arkansas Code § 27-24-1603(b)(2), concerning the issuance, renewal, and replacement of a license plate, is amended to read as follows:

<< AR ST § 27-24-1603 >>

(2)(A) A fee not to exceed twenty-five dollars (\$25.00) to cover the design-use contribution by the Department of Parks, **Heritage**, and Tourism or to cover contributions for fundraising purposes.

(B) The fee remitted under subdivision (b)(2)(A) of this section shall be deposited into a cash fund to be used by the Department of Parks, **Heritage**, and Tourism for the following purposes:

- (i) Sponsoring college scholarships related to the field of conservation; and
- (ii) Providing conservation education programs; and

SECTION 5722. Arkansas Code § 27-67-204(b), concerning the designation of roads in and connected to state parks, is amended to read as follows:

<< AR ST § 27-67-204 >>

(b) The provisions of this section shall be applicable to all state parks which are now or may hereafter be placed under the control and direction of the Department of Parks, **Heritage**, and Tourism.

SECTION 5723. Arkansas Code § 27-67-204(d)(3) and (4), concerning the designation of roads in and connected to state parks, are amended to read as follows:

<< AR ST § 27-67-204 >>

(3) The Department of Parks, **Heritage**, and Tourism shall study the needs for public parking areas and parking facilities at the respective state parks and shall notify the Arkansas Department of Transportation thereof.

(4) The Arkansas Department of Transportation may cooperate with the Department of Parks, **Heritage**, and Tourism in the construction and maintenance of such facilities.

SECTION 5724. Arkansas Code § 27-67-204(e)(1), concerning the designation of roads in and connected to state parks, is amended to read as follows:

<< AR ST § 27-67-204 >>

(e)(1) Notwithstanding any law to the contrary the Department of Parks, **Heritage**, and Tourism is permitted by regulation to authorize the use of motorized scooters on roads within areas under the control and management of the Department of Parks, **Heritage**, and Tourism.

SECTION 5725. Arkansas Code § 27-67-224(a)(2)(B), concerning the Arkansas Wine Country Trail, is amended to read as follows:

<< AR ST § 27-67-224 >>

(B) The Arkansas Department of Transportation shall determine the location of the Arkansas Wine Country Trail in consultation with the Department of Parks, **Heritage**, and Tourism.

SECTION 5726. Arkansas Code § 27-67-224(a)(4), concerning the Arkansas Wine Country Trail, is amended to read as follows:

<< AR ST § 27-67-224 >>

(4) The signs shall be of size and shape and of materials designated by the Arkansas Department of Transportation in consultation with the Department of Parks, **Heritage**, and Tourism.

SECTION 5727. Arkansas Code § 27-67-224(b)(3), concerning the Arkansas Wine Country Trail, is amended to read as follows:

<< AR ST § 27-67-224 >>

(3) This sign, but on a smaller scale, shall be used as the symbol on the state highway map and in all tourism literature published by the Department of Parks, **Heritage**, and Tourism to indicate the Arkansas Wine Country Trail or individual vineyards, wineries, or cellars that are part of the Arkansas Wine Country Trail.

SECTION 5728. Arkansas Code § 27-67-322(f)(1), concerning the reacquisition of surplus property by a former owner, is amended to read as follows:

<< AR ST § 27-67-322 >>

(f)(1) The transfer of surplus rail and other railroad track material purchased in part with federal transportation enhancement funds and granted to the State Parks, Recreation, and Travel Commission or the Department of Parks, **Heritage**, and Tourism, or both, by the State Highway Commission shall not be subject to the procedures set forth in subsections (a)-(e) of this section.

SECTION 5729. Arkansas Code § 27-67-322(f)(3)(B), concerning the reacquisition of surplus property by a former owner, is amended to read as follows:

<< AR ST § 27-67-322 >>

(B) A transfer document executed by the State Parks, Recreation, and Travel Commission or the Department of Parks, **Heritage**, and Tourism, or both.

SECTION 5730. Arkansas Code § 27-69-205 is amended to read as follows:

<< AR ST § 27-69-205 >>

27-69-205. Advisors and assistants.

The Director of State Highways and Transportation shall designate one (1) employee of the Arkansas Department of Transportation who is an engineer or who has engineering experience, and the ~~Director~~ **Secretary** of the Department of Parks, **Heritage**, and Tourism shall appoint one (1) member of his or her staff, who shall advise and assist the Mississippi River Parkway Commission of Arkansas in carrying out its functions and duties under this subchapter.

SECTION 5731. Arkansas Code § 27-74-213 is amended to read as follows:

<< AR ST § 27-74-213 >>

27-74-213. Rest areas.

In order to provide information in the specific interest of the traveling public, the State Highway Commission is authorized to maintain maps and to permit informational directories and advertising pamphlets to be made available at safety rest areas along the interstate, primary, and other state highways designated by the commission and to establish information centers in cooperation with the Department of Parks, **Heritage**, and Tourism at safety rest areas for the purpose of informing the public of places of interest within the state and providing other information as may be considered desirable.

SECTION 5732. Arkansas Code § 27-101-105(a)(1)(B), concerning the failure to obey an officer, is amended to read as follows:

<< AR ST § 27-101-105 >>

(B) Certified law enforcement officers of the Department of Parks, **Heritage**, and Tourism and municipal police officers may enforce the provisions of this chapter.

SECTION 5733. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 14 — Department of Public Safety

<< AR ST § 25-43-1401 >>

25-43-1401. Department of Public Safety.

There is created a Department of Public Safety as a cabinet-level department.

<< AR ST § 25-43-1402 >>

25-43-1402. State entities transferred to Department of Public Safety.

(a) The administrative functions of the following state entities are transferred to the Department of Public Safety by a cabinet-level transfer:

- (1) The Arkansas Commission on Law Enforcement Standards and Training, created under § 12-9-103;**
- (2) The Arkansas Crime Information Center, created under § 12-12-201;**
- (3) The Arkansas Emergency Telephone Services Board, created under § 12-10-318;**
- (4) The Arkansas Homeland Security Advisory Group, created under 12-75-132;**
- (5) The Arkansas State Police Commission, created under § 12-8-102;**
- (6) The Child Abuse Hotline, created under § 12-18-301;**
- (7) The Crimes Against Children Division, created under § 12-8-502;**
- (8) The Crime Victims Reparations Board, created under § 16-90-705;**
- (9) The Arkansas Department of Emergency Management, created under § 12-75-109, now known as the Division of Emergency Management;**
- (10) The Department of Arkansas State Police, created under § 12-8-101, now known as the Division of Arkansas State Police;**
- (11) The Law Enforcement Support Office, referenced under § 19-11-605;**
- (12) The Office of Fire Protection Services, created under § 20-22-805;**
- (13) The State Crime Laboratory, created under § 12-12-301;**
- (14) The State Crime Laboratory Board, created under § 12-12-302;**
- (15) The State Emergency Response Commission, created under 12-82-104;**
- (16) The State Fire Prevention Commission, created under § 20-22-202; and**
- (17) The Supervisory Board for the Arkansas Crime Information Center, created under § 12-12-202.**

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

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

<< AR ST § 25-43-1403 >>

25-43-1403. Secretary of the Department of Public Safety.

(a) The executive head of the Department of Public Safety shall be the Secretary of the Department of Public Safety.

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

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

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

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

(1) Hire department personnel;

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

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

<< AR ST § 25-43-1404 >>

25-43-1404. Division of Law Enforcement Standards and Training.

There is created within the Department of Public Safety the Division of Law Enforcement Standards and Training.

SECTION 5734. Arkansas Code § 3-2-303(a) and (b), concerning the authority of the Department of Arkansas State Police, are amended to read as follows:

<< AR ST § 3-2-303 >>

(a) In addition to the duties otherwise prescribed by law upon the ~~Department~~ **Division** of Arkansas State Police, it shall be the duty of the ~~department~~ **division** to assist in enforcing all of the laws of the State of Arkansas against the unlawful manufacture or sale of intoxicating liquors.

(b)(1) The Director of the ~~Department~~ **Division** of Arkansas State Police, the Deputy Director of the ~~Department~~ **Division** of Arkansas State Police, captains, lieutenants, rangers, and other employees of the director shall perform such duties as may be prescribed by the director with respect to the enforcement of the laws, and they shall have authority to take affidavits and to swear the persons signing the affidavits with respect to the violation of any law.

(2) The false swearing or making of the affidavits shall be deemed and punished as perjury.

SECTION 5735. Arkansas Code § 5-64-707 is amended to read as follows:

<< AR ST § 5-64-707 >>

5-64-707. Admissibility of drug analysis — Cross-examination.

(a) In any criminal prosecution for an alleged violation of this chapter, a record or report of any relevant drug analysis made by the State Crime Laboratory shall be received as competent evidence as to a matter contained in the record or report in this section in any preliminary hearing when attested to by the ~~Executive~~ Director of the State Crime Laboratory or his or her assistant or deputy.

(b)(1) Nothing in this section abrogates a defendant's right of cross-examination.

(2) If the defendant desires to cross-examine the ~~executive~~ director or the appropriate assistant or deputy, the defendant may compel the ~~executive~~ director or his or her appropriate assistant or deputy to attend court by the issuance of a proper subpoena.

(3) If the defendant compels the ~~executive~~ director or his or her appropriate assistant or deputy to attend court by the issuance of a proper subpoena:

(A) The record or report is only admissible through the ~~executive~~ director or the appropriate assistant or deputy; and

(B) The ~~executive~~ director or the appropriate assistant or deputy is subject to cross-examination by the defendant or his or her counsel.

SECTION 5736. Arkansas Code § 5-73-302(a), concerning the authority of the Director the Department of Arkansas State Police to issue a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-302 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police may issue a license to carry a concealed handgun to a person qualified as provided in this subchapter.

SECTION 5737. Arkansas Code § 5-73-308(a)(1)(A), concerning the authority of the Director the Department of Arkansas State Police to issue or deny a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-308 >>

(a)(1)(A) The Director of the ~~Department~~ **Division** of Arkansas State Police may deny a license if within the preceding five (5) years the applicant has been found guilty of one (1) or more crimes of violence constituting a misdemeanor or for the offense of carrying a weapon.

SECTION 5738. The introductory language of Arkansas Code § 5-73-309, concerning the requirements for a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-309 >>

The Director of the ~~Department~~ **Division** of Arkansas State Police shall issue a license to carry a concealed handgun if the applicant:

SECTION 5739. Arkansas Code § 5-73-309(6), concerning the requirements for a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-309 >>

(6) Is not subject to any federal, state, or local law that makes it unlawful to receive, possess, or transport any firearm, and has had his or her background check successfully completed through the ~~Department~~ **Division** of Arkansas State Police and the Federal Bureau of Investigation's National Instant Criminal Background Check System;

SECTION 5740. The introductory language of Arkansas Code § 5-73-310, concerning the application form for a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-310 >>

The application for a license to carry a concealed handgun shall be completed, under oath, on a form promulgated by the Director of the ~~Department~~ **Division** of Arkansas State Police and shall include only:

SECTION 5741. The introductory language of Arkansas Code § 5-73-311(a), concerning the application procedure for a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-311 >>

(a) The applicant for a license to carry a concealed handgun shall submit the following to the ~~Department~~ **Division** of Arkansas State Police:

SECTION 5742. Arkansas Code § 5-73-311(a)(3)(B), concerning the application procedure for a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-311 >>

(B) In the event a legible set of fingerprints, as determined by the ~~department~~ **division** and the Federal Bureau of Investigation, cannot be obtained after a minimum of two (2) attempts, the Director of the ~~Department~~ **Division** of Arkansas State Police shall determine eligibility in accordance with criteria that the ~~department~~ **division** shall establish by promulgating rules.

SECTION 5743. Arkansas Code § 5-73-311(a)(4)(A), concerning the application procedure for a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-311 >>

(4)(A) A waiver authorizing the ~~department~~ **division** access to any medical, criminal, or other records concerning the applicant and permitting access to all of the applicant's criminal records.

SECTION 5744. Arkansas Code § 5-73-311(a)(4)(C), concerning the application procedure for a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-311 >>

(C) The ~~department~~ **division** shall maintain the confidentiality of the medical, criminal, or other records; and

SECTION 5745. Arkansas Code § 5-73-311(b)(2), concerning the application procedure for a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-311 >>

(2)(A) The ~~department~~ **division** shall forward a notice of the applicant's application to the sheriff of the applicant's county of residence and, if applicable, the police chief of the applicant's municipality of residence.

(B)(i) The sheriff of the applicant's county of residence and, if applicable, the police chief of the applicant's municipality of residence may participate, at his or her discretion, in the process by submitting a voluntary report to the ~~department~~ **division** containing any readily discoverable information that he or she feels may be pertinent to the licensing of any applicant.

(ii) The reporting under subdivision (b)(2)(B)(i) of this section shall be made within thirty (30) days after the date the notice of the application was sent by the ~~department~~ **division**.

SECTION 5746. Arkansas Code § 5-73-312(a)(2)(A), concerning the revocation of a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-312 >>

(2)(A) Any law enforcement officer making an arrest of a licensee for a violation of this subchapter or any other statutory violation that requires revocation of a license to carry a concealed handgun shall confiscate the license and forward it to the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5747. Arkansas Code § 5-73-312(b), concerning the revocation of a license to carry a concealed handgun, is amended to read as follows:

<< AR ST § 5-73-312 >>

(b) When the ~~Department~~ **Division** of Arkansas State Police receives notification from any law enforcement agency or court that a licensee has been found guilty or has pleaded guilty or nolo contendere to any crime involving the use of a weapon, the license issued under this subchapter is immediately revoked.

SECTION 5748. Arkansas Code § 5-73-314(a), concerning a license to carry a concealed handgun which has been lost, destroyed, or duplicated, is amended to read as follows:

<< AR ST § 5-73-314 >>

(a) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after having a license to carry a concealed handgun lost, the licensee shall notify the Director of the ~~Department~~ **Division** of Arkansas State Police in writing of the change or loss.

SECTION 5749. Arkansas Code § 5-73-314(b)(1) and (2), concerning a license to carry a concealed handgun which has been lost, destroyed, or duplicated, are amended to read as follows:

<< AR ST § 5-73-314 >>

(1) Paying the ~~Department~~ **Division** of Arkansas State Police a fee established by the director under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and

(2) Furnishing a notarized statement to the ~~department~~ **division** that the license to carry a concealed handgun has been lost or destroyed or that a duplicate is requested.

SECTION 5750. Arkansas Code § 5-73-317 is amended to read as follows:

<< AR ST § 5-73-317 >>

5-73-317. Rules and regulations.

The Director of the ~~Department~~ **Division** of Arkansas State Police may promulgate rules and regulations to permit the efficient administration of this subchapter.

SECTION 5751. Arkansas Code § 5-73-320(a), concerning a handgun license for certain members of the Arkansas National Guard and military personnel, is amended to read as follows:

<< AR ST § 5-73-320 >>

(a) The ~~Department~~ **Division** of Arkansas State Police may issue a license under this subchapter to a person who:

(1) Is currently serving as an active duty member of, or has recently been honorably discharged from, the United States Armed Forces, the National Guard, or a reserve component of the United States Armed Forces;

(2) Submits the following documents:

(A) A completed concealed handgun license application as prescribed by the ~~department~~ **division**;

(B) A form specified by the Director of the ~~Department~~ **Division** of Arkansas State Police reflecting the fingerprints of the applicant;

(C) A properly completed and dated certificate from a concealed handgun carry training instructor who is registered with the ~~department~~ **division**;

(D) A letter dated and personally signed by a commanding officer or his or her designee stating that the applicant is of good character and sound judgment;

(E) A form, as designated by the ~~department~~ **division**, showing that the applicant has met the military qualification requirements for issuance and operation of a handgun within one (1) year of the application date;

(F) A copy of the face or photograph side of a current uniformed services of the United States identification card, if the applicant is a member of the United States Armed Forces; and

(G) An electronic passport-style photo of the applicant, if the applicant does not hold an Arkansas driver's license or identification card; and

(3) Submits any required fees.

SECTION 5752. Arkansas Code § 5-73-322(g)(1), concerning concealed handguns in a university, college, or community college building, is amended to read as follows:

<< AR ST § 5-73-322 >>

(g)(1) A licensee who intends to carry a concealed handgun in the buildings and on the grounds of a public university, public college, or community college is required to complete a training course approved by the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5753. Arkansas Code § 5-73-322(g)(2)(B), concerning concealed handguns in a university, college, or community college building, is amended to read as follows:

<< AR ST § 5-73-322 >>

(B) The Director of the ~~Department~~ **Division** of Arkansas State Police may waive up to four (4) hours of training required under this subsection for a licensee based on the licensee's prior training attended within ten (10) years of applying for the endorsement provided for under subdivision (g)(3) of this section on appropriate topics.

SECTION 5754. Arkansas Code § 5-73-322(g)(3), concerning concealed handguns in a university, college, or community college building, is amended to read as follows:

<< AR ST § 5-73-322 >>

(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 5755. Arkansas Code § 5-73-322(i), concerning concealed handguns in a university, college, or community college building, is amended to read as follows:

<< AR ST § 5-73-322 >>

(i) The ~~department~~ **division** shall maintain a list of licensees who have successfully completed a training course under subsection (g) of this section.

SECTION 5756. Arkansas Code § 6-10-121(b), concerning tornado safety drills, is amended to read as follows:

<< AR ST § 6-10-121 >>

(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 5757. Arkansas Code § 12-8-101(a), concerning the creation of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 12-8-101 >>

(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 5758. 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:

<< AR ST § 12-8-103 >>

(3) Review each application for employment presented to it by the Director of the ~~Department~~ **Division** of Arkansas State Police for certification to the eligibility list.

SECTION 5759. Arkansas Code § 12-8-103(c), concerning the powers, duties, and restrictions of the Arkansas State Police Commission, is amended to read as follows:

<< AR ST § 12-8-103 >>

(c) The members of the commission are granted disciplinary authority equal to that of supervisory and administrative personnel of the ~~Department~~ **Division** of Arkansas State Police with respect to violations of rules and regulations committed by a ~~department~~ **division** employee in the presence of a commissioner.

SECTION 5760. Arkansas Code § 12-8-104 is amended to read as follows:

<< AR ST § 12-8-104 >>

12-8-104. Director.

(a)(1)(A) After conferring with the members of the Arkansas State Police Commission, the Governor shall appoint a Director of the ~~Department~~ **Division** of Arkansas State Police who shall be the executive and administrative head of the ~~Department~~ **Division** of Arkansas State Police and shall receive a salary as fixed by law.

(B) The Director of the ~~Department~~ **Division** of Arkansas State Police shall serve at the pleasure of the Governor.

(C) The Director of the Division of Arkansas State Police shall report to the Secretary of the Department of Public Safety.

(2) The Director of the ~~Department~~ **Division** of Arkansas State Police shall be of good moral character and a resident and a qualified elector of the State of Arkansas.

(3) In addition to all other qualifications contained in this section, the Director of the ~~Department~~ **Division** of Arkansas State Police, at the time of appointment to the position of Director of the ~~Department~~ **Division** of Arkansas State Police, shall either:

(A) Be a college graduate with at least a bachelor's degree in criminology, business administration, or a related field;

(B) Have graduated from a standard high school or vocational school and have eight (8) years' previous experience in law enforcement or a related field with considerable supervisory and administrative experience; or

(C) Have at least ten (10) years' experience in law enforcement.

(b) The Director of the ~~Department~~ **Division** of Arkansas State Police shall determine the number of other officers and patrol personnel to be employed by the ~~Department~~ **Division** of Arkansas State Police, and they shall be paid salaries according to rank, not exceeding the salaries provided.

(c) The Director of the ~~Department~~ **Division** of Arkansas State Police shall promulgate such rules as are necessary for the efficient operation of the ~~Department~~ **Division** of Arkansas State Police and for the enforcement of such duties as are prescribed in this chapter.

(d) The Director of the ~~Department~~ **Division** of Arkansas State Police shall keep the books and records of the ~~Department~~ **Division** of Arkansas State Police, which shall be audited as the books and accounts of other state departments.

(e) An annual report to the ~~Governor~~ **secretary** and a biannual report to the General Assembly showing the activities, number of arrests, amounts collected by the ~~Department~~ **Division** of Arkansas State Police, and disposition of all cases shall be made by the Director of the ~~Department~~ **Division** of Arkansas State Police.

(f)(1) The Director of the ~~Department~~ **Division** of Arkansas State Police shall have supervision and control for the purpose of discipline and proper management of all the members and employees of the ~~Department~~ **Division** of Arkansas State Police.

(2)(A) The Director of the ~~Department~~ **Division** of Arkansas State Police may designate that some or all employees of the ~~Department~~ **Division** of Arkansas State Police be trained pursuant to a memorandum of understanding between the State of Arkansas and the United States Department of Justice or the United States Department of Homeland Security concerning the enforcement of federal immigration laws on federal and interstate highways in the State of Arkansas.

(B) The amount spent for training employees of the ~~Department~~ **Division** of Arkansas State Police under the memorandum of understanding between the State of Arkansas and the United States Department of Justice or the United States Department of Homeland Security shall be paid in accordance with the provisions of § 12–8–118.

(3)(A) Upon request of the Director of State Highways and Transportation, the Director of the ~~Department~~ **Division** of Arkansas State Police may designate certified law enforcement officers from the Arkansas Highway Police Division of the Arkansas Department of Transportation to be trained under the terms of the memorandum of understanding described in subdivision (f)(2) of this section.

(B) The amount spent for training certified law enforcement officers from the Arkansas Highway Police Division of the Arkansas Department of Transportation shall be paid by the Arkansas Department of Transportation.

(g) The Director of the ~~Department~~ **Division** of Arkansas State Police may establish such divisions within the ranks of the ~~Department~~ **Division** of Arkansas State Police as he or she may deem necessary and proper.

(h) Whenever in the Director of the ~~Department~~ **Division** of Arkansas State Police's discretion the action is necessary for the efficient operation of the ~~Department~~ **Division** of Arkansas State Police, the Director of the ~~Department~~ **Division** of Arkansas State Police may:

(1) Transfer, assign, and reassign from one division to another division any member of the ~~Department~~ **Division** of Arkansas State Police or other employee of the ~~Department~~ **Division** of Arkansas State Police; or

(2)(A) Subject to the approval of the commission, promote or demote in rank any member of the ~~Department~~ **Division** of Arkansas State Police.

(B) However, any demotion pursuant to subdivision (h)(2)(A) of this section shall be for nondisciplinary reasons.

(i) Due to the exacting and special duties of the Director of the ~~Department~~ **Division** of Arkansas State Police, he or she may draw an expense allowance in an amount not to exceed six hundred dollars (\$600) per month.

(j)(1) Subject to the provisions of subsection (f) of this section, the Director of the ~~Department~~ **Division** of Arkansas State Police may negotiate the terms of a memorandum of understanding between the State of Arkansas and the United

States Department of Justice or the United States Department of Homeland Security concerning the enforcement of federal immigration laws.

(2)(A) The memorandum of understanding described in subdivision (j)(1) of this section must be signed on behalf of the State of Arkansas by the Director of the ~~Department~~ **Division** of Arkansas State Police, the Governor, and the Director of **the Division of** Law Enforcement Standards and Training.

(B) Prior to the signing provided for by subdivision (j)(2)(A) of this section, the memorandum of understanding shall be reviewed by the Legislative Council.

(k) The Director of the ~~Department~~ **Division** of Arkansas State Police shall implement or assist other entities to develop and implement a public service campaign concerning racial profiling and may utilize brochures, flyers, or public service announcements.

SECTION 5761. Arkansas Code § 12–8–105 is amended to read as follows:

<< AR ST § 12–8–105 >>

12–8–105. Officers and members — Oath.

(a) Before entering upon their duties, all members and officers of the ~~Department~~ **Division** of Arkansas State Police shall take **the** oath as now provided by law for public officials.

(b) The Director of the ~~Department~~ **Division** of Arkansas State Police shall take the additional oath that he or she will not be either directly or indirectly interested in any purchase made by or for the ~~department~~ **division**.

(c) Any violation of oath shall constitute perjury and upon conviction shall be punished accordingly.

(d) The oath provided for in this section shall be filed in duplicate, the original filed with the ~~department~~ **division** and a copy with the Secretary of the Arkansas State Police Commission.

SECTION 5762. The introductory language of Arkansas Code § 12–8–106(a)(1), concerning the duties, powers, and restrictions of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 12–8–106 >>

(a)(1) It shall be the duty of the ~~Department~~ **Division** of Arkansas State Police to:

SECTION 5763. Arkansas Code § 12–8–106(a)(2), concerning the duties, powers, and restrictions of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 12–8–106 >>

(2) The Director of the ~~Department~~ **Division** of Arkansas State Police may promulgate necessary rules and regulations to carry out the purpose and intent of subdivision (a)(1)(B) of this section.

SECTION 5764. Arkansas Code § 12–8–106(b) and (c), concerning the duties, powers, and restrictions of the Department of Arkansas State Police, are amended to read as follows:

<< AR ST § 12-8-106 >>

(b) The department **Division of Arkansas State Police** shall be conservators of the peace and as such shall have the powers possessed by police officers in cities and county sheriffs in counties, except that the department may exercise such powers anywhere in this state.

(c) The department **Division of Arkansas State Police** shall have the authority to establish a Crimes Against Children Division, either through transfer or by contract, to conduct child abuse investigations, to administer the Child Abuse Hotline, and, when consistent with regulations promulgated by the department, to provide training and technical assistance to local law enforcement in conducting child abuse investigations.

SECTION 5765. Arkansas Code § 12-8-106(e)-(g), concerning the duties, powers, and restrictions of the Department of Arkansas State Police, are amended to read as follows:

<< AR ST § 12-8-106 >>

(e) However, this chapter shall not be construed so as to take away any authority of the regularly constituted peace officers in the state, but the department **Division of Arkansas State Police** shall cooperate with them in the enforcement of the criminal laws of the state and assist such officers either in the enforcement of the law or apprehension of criminals.

(f) Nothing in this chapter shall be construed as to authorize any officer of the department **Division of Arkansas State Police** to serve writs unless they are specifically directed to the department **Division of Arkansas State Police**, or an officer thereof, by the issuing authority.

(g) No officer or member of the department **Division of Arkansas State Police** shall ever be used in performing police duties on private property in connection with any strike, lockout, or other industrial disturbance.

SECTION 5766. Arkansas Code § 12-8-107 is amended to read as follows:

<< AR ST § 12-8-107 >>

12-8-107. Arrests and detentions.

(a) If any officer of the Department **Division** of Arkansas State Police delivers an arrested person to a county jail for detention, it shall be the duty of the jailer to receive the prisoner.

(b) The department **division** officer may notify the county sheriff or prosecuting officer of the county in which the crime was committed of the arrest and detention of the prisoner and make such lawful disposition of the prisoner as the department **division** officer is directed to do by the county sheriff or prosecuting officer.

SECTION 5767. Arkansas Code § 12-8-108 is amended to read as follows:

<< AR ST § 12-8-108 >>

12-8-108. Security of Governor, capitol building, etc.

(a) The Department **Division** of Arkansas State Police shall be responsible for the safety and security of the:

- (1) Governor and his or her family;
- (2) Lieutenant Governor and his or her family;

(3) Governor's Mansion and mansion grounds; and

(4) State Capitol Building and grounds.

(b) The ~~department~~ **division** is authorized to assign officers of the ~~department~~ **division** in such numbers and to such locations as is necessary to carry out the responsibility imposed on the ~~department~~ **division** by this section.

(c) Data, records, surveillance footage, security procedures, emergency plans, and other information compiled or possessed by the ~~department~~ **division** concerning the Governor's Mansion and mansion grounds are confidential and not subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

SECTION 5768. Arkansas Code § 12-8-109 is amended to read as follows:

<< AR ST § 12-8-109 >>

12-8-109. Police protection for statewide functions.

(a) The ~~Department~~ **Division** of Arkansas State Police shall provide police protection, commensurate with the available personnel and resources of the ~~department~~ **division** which are not required for other activities, benefiting any statewide function or similar activities sponsored or conducted by:

(1) A state agency, board, or commission;

(2) A state-supported college or university;

(3) A private nonprofit association or organization on public property; or

(4) Statewide athletic events under the auspices of the public schools.

(b) For the purposes of this section, the statewide functions for which the ~~department~~ **division** may provide police protection at the Arkansas State Fair and Livestock Showgrounds shall include the annual Arkansas State Fair and Livestock Show held at the showgrounds, and statewide athletic contests in which the public schools of this state participate which are held at the showgrounds.

SECTION 5769. Arkansas Code § 12-8-110 is amended to read as follows:

<< AR ST § 12-8-110 >>

12-8-110. Deputizing citizens in emergency.

Any ~~Department~~ **Division** of Arkansas State Police officer shall have the authority in case of emergency to call upon and deputize any reputable citizen of the state for assistance whenever it is deemed necessary for the proper enforcement of the law.

SECTION 5770. Arkansas Code § 12-8-111 is amended to read as follows:

<< AR ST § 12-8-111 >>

12-8-111. Cooperation among agencies.

(a) It shall be the duty of the ~~Department~~ **Division** of Arkansas State Police and its officers to cooperate with other law enforcement agencies of this state in the investigation and apprehension of criminals and the prevention of crime

within the state and to use every means at their disposal in disseminating information that will more effectively expedite the detection of crime and the apprehension and conviction of criminals and promote the highest possible degree of efficiency in the enforcement of the criminal and traffic laws of the state.

(b) The law enforcement agencies of the state shall furnish to the ~~department~~ **division** such information as they may have or shall hereafter acquire upon request of the Director of the ~~Department~~ **Division** of Arkansas State Police relating to crime and criminals and otherwise cooperate with the ~~department~~ **division** in the enforcement of the criminal and traffic laws of this state.

SECTION 5771. Arkansas Code § 12–8–112 is amended to read as follows:

<< AR ST § 12–8–112 >>

12–8–112. Headquarters — Bureau of Identification and Information.

(a) The ~~Department~~ **Division** of Arkansas State Police shall maintain headquarters and an Identification Bureau which shall be located at the State Capitol or elsewhere in ~~the City of Little Rock~~ **Pulaski County**.

(b) The ~~department~~ **division** may establish district headquarters in other parts of the state if it is found to be necessary for the better enforcement of the provisions of this chapter. The Director of the ~~Department~~ **Division** of Arkansas State Police shall have the authority to assign the personnel for the district headquarters when designated.

SECTION 5772. Arkansas Code § 12–8–113 is amended to read as follows:

<< AR ST § 12–8–113 >>

12–8–113. Drug Abuse Enforcement Unit — Hot line.

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police is directed to establish a Drug Abuse Enforcement Unit and assign sufficient supervisory, clerical, and enforcement personnel to carry out the duties and responsibilities of that unit as defined by the Uniform Controlled Substances Act, § 5–64–101 et seq.

(b)(1) The unit shall operate a “drug abuse hot line” to allow citizens to use a toll-free in-watts telephone line to report to the ~~Department~~ **Division** of Arkansas State Police information regarding possible violations of the Uniform Controlled Substances Act, § 5–64–101 et seq., and other provisions of Arkansas law relating to unlawful use of drugs.

(2) The ~~department~~ **division** shall encourage citizen involvement in combating drug-related crimes by publicizing the existence of the drug abuse hot line.

SECTION 5773. Arkansas Code § 12–8–114(a) and (b), concerning legal counsel and advisors for the Arkansas State Police Commission and the Department of Arkansas State Police, are amended to read as follows:

<< AR ST § 12–8–114 >>

(a) The Attorney General shall be the legal representative and advisor of the Arkansas State Police Commission, the ~~Department~~ **Division** of Arkansas State Police, and the Director of the ~~Department~~ **Division** of Arkansas State Police.

(b) However, the director, with the approval of the Attorney General and Governor, may employ other counsel when in the Attorney General's and Governor's judgment it is necessary for the proper enforcement of the provisions of this chapter and the efficient operation of the ~~department~~ **division**.

SECTION 5774. Arkansas Code § 12–8–115 is amended to read as follows:

<< AR ST § 12–8–115 >>

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 5775. Arkansas Code § 12–8–116 is amended to read as follows:

<< AR ST § 12–8–116 >>

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 5776. Arkansas Code § 12–8–118 is amended to read as follows:

<< AR ST § 12–8–118 >>

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 the payment of salaries and expenses of the ~~Department~~ **Division** of Arkansas State Police from the ~~Department~~ **Division** of Arkansas State Police Fund or any other fund as provided by law.

SECTION 5777. Arkansas Code § 12–8–119(a), concerning the police training school, is amended to read as follows:

<< AR ST § 12–8–119 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police may establish, maintain, and conduct a police training school and may admit to the training school police officers and judicial officers of the various political subdivisions of the State of Arkansas.

SECTION 5778. Arkansas Code § 12–8–120 is amended to read as follows:

<< AR ST § 12–8–120 >>

12–8–120. Background investigations.

(a) The ~~Department~~ **Division** of Arkansas State Police is authorized to charge a fee, not to exceed twenty dollars (\$20.00), for each background investigation requested of and conducted by the ~~department~~ **division**.

(b) The background investigation fee shall be collected by the ~~department~~ **division** and deposited into the State Treasury as special revenue to the credit of the ~~Department~~ **Division** of Arkansas State Police Fund.

SECTION 5779. Arkansas Code § 12–8–121 is amended to read as follows:

<< AR ST § 12–8–121 >>

12–8–121. Use of state uniform, patch, or logo prohibited.

(a) It shall be prohibited for any law enforcement agency, private security firm, corporation, partnership, or individual to wear a uniform in the same design and specific color scheme as the ~~Department~~ **Division** of Arkansas State Police.

(b) No law enforcement agency, private security firm, corporation, partnership, or individual may use the Arkansas State Police uniform or patch, nor may the Arkansas State Police logo or the terms “Arkansas State Police”, “Arkansas State Trooper”, or “Arkansas State Troopers” be used or otherwise displayed for the endorsement of any product, business, or purpose without the express written permission of the Director of the ~~Department~~ **Division** of Arkansas State Police.

(c) Nothing in this section shall prohibit uniforms or commercial concerns from reproducing these items for ~~department~~ **division** use, nor the public display of the uniform, patch, or logo when it relates to official governmental business.

SECTION 5780. Arkansas Code § 12–8–125(a), concerning the Small Municipality Law Enforcement Vehicle Grant Program, is amended to read as follows:

<< AR ST § 12–8–125 >>

(a) There is created the “Small Municipality Law Enforcement Vehicle Grant Program”, to be administered by the ~~Department~~ **Division** of Arkansas State Police with funding from the General Improvement Fund or its successor fund or fund accounts.

SECTION 5781. Arkansas Code § 12–8–125(c)(1), concerning the Small Municipality Law Enforcement Vehicle Grant Program, is amended to read as follows:

<< AR ST § 12–8–125 >>

(c)(1) The ~~Department of Arkansas State Police~~ **division** shall promulgate rules necessary for the implementation of the program.

SECTION 5782. Arkansas Code § 12–8–125(e), concerning the Small Municipality Law Enforcement Vehicle Grant Program, is amended to read as follows:

<< AR ST § 12-8-125 >>

(e) If the ~~Department~~ **Division** of Arkansas State Police awards a grant to a city of the second class or incorporated town under this section, the ~~Department of Arkansas State Police~~ **division** shall pay the grant funds for the purchase of a used vehicle directly to the Marketing and Redistribution Section within the Office of State Procurement ~~of the Department of Finance and Administration~~ .

SECTION 5783. Arkansas Code § 12-8-201(a)-(c), concerning the selection of the members of the police force, are amended to read as follows:

<< AR ST § 12-8-201 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police shall appoint all members of the police force, subject to approval of the Arkansas State Police Commission, and the director shall select the clerical and stenographic force of the ~~Department~~ **Division** of Arkansas State Police.

(b) The commission shall promulgate rules and regulations setting forth the minimum qualifications for employment as a ~~department~~ **division** police officer and prescribing the manner of examination of applicants for the position.

(c) The director shall receive all applications for positions as ~~department~~ **division** officers and submit them to the commission for examination as to the physical fitness and mental qualifications of the applicants and for such other examinations as provided for by the commission's rules and regulations.

SECTION 5784. Arkansas Code § 12-8-201(e)(2), concerning the selection of the members of the police force, is amended to read as follows:

<< AR ST § 12-8-201 >>

(2) From this list, the director shall make the final selection for the appointments, and any vacancy occurring in the ~~department~~ **division** shall be filled from this list.

SECTION 5785. Arkansas Code § 12-8-203(a), concerning the probationary period of a parole officer, is amended to read as follows:

<< AR ST § 12-8-203 >>

(a)(1) Each person who is selected as a police officer of the ~~Department~~ **Division** of Arkansas State Police shall be a probationer for a period of eighteen (18) months from his or her date of hire.

(2) A probationer may be discharged by the Director of the ~~Department~~ **Division** of Arkansas State Police with the approval of the Arkansas State Police Commission with or without cause.

SECTION 5786. Arkansas Code § 12-8-204 is amended to read as follows:

<< AR ST § 12-8-204 >>

12-8-204. Tenure — Removal, suspension, or discharge.

(a) The members of the ~~Department~~ **Division** of Arkansas State Police shall hold their offices until and unless removed for cause.

(b) Should the Director of the ~~Department~~ **Division** of Arkansas State Police deem it necessary to remove, suspend, discharge, demote, or transfer for disciplinary reasons any ~~department~~ **division** officer, the director shall do so by written notice.

(c)(1) Any ~~department~~ **division** officer so removed, suspended, discharged, demoted, or transferred shall have the right of appeal to the Arkansas State Police Commission, provided that notice of the appeal shall be lodged with the commission within ten (10) days after notice to the officer of his or her discharge, removal, suspension, demotion, or disciplinary transfer.

(2) When so filed, the appeal shall be heard and determined by the commission within a reasonable time from the date the appeal is filed with the commission.

(d)(1) Provided the appeal is perfected within thirty (30) days from the date of the final order made by the commission, an appeal may be taken to the Pulaski County Circuit Court from any order of the commission discharging, removing, suspending, demoting, or transferring for disciplinary reasons any member of the ~~department~~ **division** force.

(2) The appeal shall be heard by the court without the introduction of any further testimony.

SECTION 5787. Arkansas Code § 12–8–213 is amended to read as follows:

<< AR ST § 12–8–213 >>

12–8–213. Equipment and uniforms.

(a) Such motorcycles, automobiles, and other vehicles, equipment, and supplies as may be necessary for the proper and efficient operation of the ~~Department~~ **Division** of Arkansas State Police and as may be necessary for the proper enforcement of this chapter shall be furnished to the officers and patrol personnel by the ~~department~~ **division**.

(b) The officers and patrol personnel shall wear and display upon their person a metal badge or other insignia as the ~~director of the department~~ **Director of the Division of Arkansas State Police** shall require, bearing the words “Arkansas State Police”.

(c) All such patrol personnel and officers shall wear such uniforms at such times and places as shall be designated and required by the ~~Director of the Department of Arkansas State Police~~ **director**.

SECTION 5788. Arkansas Code § 12–8–215(a) and (b), concerning additional salary payments by the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 12–8–215 >>

(a) In the event that sufficient revenues in the judgment of the Director of the ~~Department~~ **Division** of Arkansas State Police exist, the ~~Department~~ **Division** of Arkansas State Police is authorized to make additional salary payments from such funds to those employees who have attained law enforcement certification above the basic certificate level, as defined by the Arkansas Commission on Law Enforcement Standards and Training.

(b) It is the intent of this section that such payment shall be optional, at the discretion of the director, dependent on sufficient revenues, and shall not be implemented using funds specifically set aside for other programs within the department **division**.

SECTION 5789. Arkansas Code § 12-8-215(c)(2)(A), concerning additional salary payments by the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 12-8-215 >>

(A) Director of the Department **Division** of Arkansas State Police;

SECTION 5790. Arkansas Code § 12-8-301 is amended to read as follows:

<< AR ST § 12-8-301 >>

12-8-301. Title.

This subchapter shall be known and may be cited as the “Department **Division** of Arkansas State Police Communications Equipment Leasing Act”.

SECTION 5791. Arkansas Code § 12-8-303(1), concerning the definition of “acquire” under the Department of Arkansas State Police Communications Equipment Leasing Act, is amended to read as follows:

<< AR ST § 12-8-303 >>

(1) “Acquire” means to acquire by lease, lease-purchase, or otherwise, construct, repair, alter, install, restore, or place on any land or in any building or motor vehicle any communications equipment by negotiation or bidding upon such terms and conditions as are determined by the Arkansas State Police Commission to be in the best interests of the Department **Division** of Arkansas State Police and that will most effectively serve the purposes of this subchapter;

SECTION 5792. Arkansas Code § 12-8-303(5) and (6), concerning the definition of “department” and “director” under the Department of Arkansas State Police Communications Equipment Leasing Act, are repealed.

<< AR ST § 12-8-303 >>

(5) “Department” means the Department of Arkansas State Police, created by § 12-8-101, and any successor agency;

(6) “Director” means the Director of the Department of Arkansas State Police;

SECTION 5793. Arkansas Code § 12-8-303(8), concerning the definition of “lease payments” under the Department of Arkansas State Police Communications Equipment Leasing Act, is amended to read as follows:

<< AR ST § 12-8-303 >>

(8) “Lease payments” means payments to be made by the department **division** from pledged revenues or other legally available sources to pay costs of communications equipment; and

SECTION 5794. Arkansas Code § 12–8–305(a)(1)(A), concerning additional powers of the Arkansas State Police Commission, is amended to read as follows:

<< AR ST § 12–8–305 >>

(1)(A) Acquire, construct, repair, renovate, alter, maintain, and equip communications equipment for use by the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5795. Arkansas Code § 12–8–305(a)(2), concerning additional powers of the Arkansas State Police Commission, is amended to read as follows:

<< AR ST § 12–8–305 >>

(2) Contract for the lease, lease-purchase, or purchase of the communications equipment on such terms and conditions as are specified by this subchapter and approved by the Director of the ~~Department~~ **Division** of Arkansas State Police with the consent of the commission;

SECTION 5796. Arkansas Code § 12–8–305(a)(12), concerning additional powers of the Arkansas State Police Commission, is amended to read as follows:

<< AR ST § 12–8–305 >>

(12) Arrange for the use of such communications equipment by any federal, state, or local governmental agency or any other person, from time to time, as any of such communications equipment is not needed by the ~~department~~ **division** and collect fees and charges, as the commission determines to be reasonable, in connection with the use of any communications equipment by any other person;

SECTION 5797. Arkansas Code § 12–8–305(b), concerning additional powers of the Arkansas State Police Commission, is amended to read as follows:

<< AR ST § 12–8–305 >>

(b) All the powers, purposes, and authorities set forth in subsection (a) of this section, except those relating to the contracting for the lease, purchase, or lease-purchase of the communications equipment, may be carried out by the ~~department~~ **division**.

SECTION 5798. 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:

<< AR ST § 12–8–403 >>

(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 5799. 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:

<< AR ST § 12-8-403 >>

(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 5800. 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:

<< AR ST § 12-8-404 >>

(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 5801. Arkansas Code § 12-8-601 is amended to read as follows:

<< AR ST § 12-8-601 >>

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 5802. 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:

<< AR ST § 12-8-602 >>

- (1) The ~~Department~~ **Division** of Arkansas State Police is faced daily with:
 - (A) Maintaining the most efficient and secure methods of transmitting and processing information between officers in the field and headquarters;
 - (B) The need to maintain and develop the most efficient means of allocating ~~department~~ **division** personnel and other resources, particularly in emergency circumstances; and
 - (C) The need to design, construct, and maintain facilities from which the ~~department's~~ **division's** personnel and resources may be stationed and deployed;
- (2) There is a need to continuously improve, upgrade, expand, and maintain the ~~department's~~ **division's** headquarters facilities and communication and information technology systems and equipment to support the police force and its mission to protect and serve the citizens of the state;
- (3) A designated method of financing is necessary to enable the ~~department~~ **division** to obtain and maintain communication and information technology equipment and headquarters facilities;

(4) The use of tax-exempt revenue bonds to finance communication and information technology equipment and headquarters facilities has proven to be an economical and cost-efficient method for financing equipment and facilities for the ~~department~~ **division**;

(5) Certain driver license fees have been pledged and utilized by the ~~department~~ **Department of Arkansas State Police or Division of Arkansas State Police** since 1997 to finance equipment and facilities for the ~~department~~ **or division**;

(6) These driver license fees should continue to be designated as a source of funding to be utilized and pledged by the ~~department~~ **division** to finance or purchase communication and information technology equipment and headquarters facilities;

SECTION 5803. Arkansas Code § 12–8–603(1)(A), concerning the definition of “acquire” under the Department of Arkansas State Police Headquarters Facilities and Equipment Financing Act, is amended to read as follows:

<< AR ST § 12–8–603 >>

(A) Are determined by the Arkansas State Police Commission to be in the best interests of the ~~Department~~ **Division** of Arkansas State Police; and

SECTION 5804. Arkansas Code § 12–8–603(6), concerning the definition of “headquarters facility” under the Department of Arkansas State Police Headquarters Facilities and Equipment Financing Act, is amended to read as follows:

<< AR ST § 12–8–603 >>

(6) “Headquarters facility” means part or all of one (1) or more items or properties used by the ~~department~~ **division** to accomplish or facilitate its purposes, including without limitation:

(A) Land, buildings, fixtures, infrastructure, improvements, furniture, equipment, software, and personal property necessary or convenient to the land, buildings, fixtures, infrastructure, improvements, furniture, equipment, and software; and

(B) Engineering, design, construction, or architectural plans related to a property used by the ~~department~~ **division**;

SECTION 5805. Arkansas Code § 12–8–604(2), concerning the pledge of revenues under the Department of Arkansas State Police Headquarters Facilities and Equipment Financing Act, is amended to read as follows:

<< AR ST § 12–8–604 >>

(2) Used by the ~~Department~~ **Division** of Arkansas State Police as provided in this subchapter.

SECTION 5806. Arkansas Code § 12–8–605(2), concerning the powers of the Arkansas State Police Commission, is amended to read as follows:

<< AR ST § 12-8-605 >>

(2) Contract to acquire headquarters facilities and communication and information technology equipment on the terms and conditions specified by this subchapter and approved by the Director of the ~~Department~~ **Division** of Arkansas State Police with the consent of the commission;

SECTION 5807. Arkansas Code § 12-8-606 is amended to read as follows:

<< AR ST § 12-8-606 >>

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 payments and other costs in connection with the bonds and the maintenance of reserves, notwithstanding the right of the ~~Department~~ **Division** of Arkansas State Police to withdraw funds on the last day of each fiscal quarter if debt service payments are current.

(d) If any debt service payments remain to be made, the General Assembly may modify or change the pledged revenues only if there are always maintained in effect and made available for the payment of debt service payments sources of revenue comparable in amount and time of receipt that produce revenues sufficient to provide for and secure debt service payments when due.

SECTION 5808. Arkansas Code § 12–8–607 is amended to read as follows:

<< AR ST § 12–8–607 >>

12–8–607. Department Division of Arkansas State Police Financing Fund.

(a) There is created the ~~Department~~ **Division** of Arkansas State Police Financing Fund.

(b) The fund is a cash fund of the ~~Department~~ **Division** of Arkansas State Police and shall be used as provided in this subchapter.

SECTION 5809. Arkansas Code § 12–9–102(1)(B), concerning the definition of “law enforcement agency” under the laws governing the Commission on Law Enforcement Standards, is amended to read as follows:

<< AR ST § 12–9–102 >>

(B) The ~~Arkansas Commission on~~ **Division of** Law Enforcement Standards and Training and the Black River Technical College Law Enforcement Training Academy as designated under § 12–9–210; and

SECTION 5810. Arkansas Code § 12–9–103(b)(1)(A), concerning the creation, members, meetings, and director of the Arkansas Commission on Law Enforcement Standards and Training, is amended to read as follows:

<< AR ST § 12–9–103 >>

(b)(1)(A) Two (2) members of the commission shall be chiefs of police of municipalities in Arkansas, two (2) members of the commission shall be county sheriffs of counties in this state, one (1) member shall be an officer of the ~~Department~~ **Division** of Arkansas State Police, two (2) members shall be appointed to represent the public, one (1) member shall be an educator in the field of criminal justice, and one (1) member shall represent the Arkansas Municipal Police Association.

SECTION 5811. Arkansas Code § 12–9–103(g), concerning the creation, members, meetings, and director of the Arkansas Commission on Law Enforcement Standards and Training, is amended to read as follows:

<< AR ST § 12–9–103 >>

(g)(1) Upon recommendation of the commission, the Governor shall appoint the Director of **the Division of** Law Enforcement Standards and Training, who shall perform such duties as may be directed by the commission and who shall serve at the pleasure of the Governor.

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

SECTION 5812. Arkansas Code § 12–9–105 is amended to read as follows:

<< AR ST § 12–9–105 >>

12–9–105. Employees.

The ~~Arkansas Commission on~~ **Division of** Law Enforcement Standards and Training may employ such employees as are necessary to efficiently and effectively carry out this subchapter and as may be authorized by appropriations of the General Assembly.

SECTION 5813. Arkansas Code § 12-9-107 is amended to read as follows:

<< AR ST § 12-9-107 >>

12-9-107. Training programs.

(a)(1) For the purpose of this subchapter, the ~~Arkansas Commission on~~ **Division of** Law Enforcement Standards and Training may cooperate with federal, state, and local law enforcement agencies in establishing and conducting instruction and training programs for law enforcement officers of this state, its counties, and municipalities.

(2) Cooperation under subdivision (a)(1) of this section may include without limitation the use of any training facility, equipment, or personnel to conduct training or provide services for any law enforcement or public safety purpose.

(b) The ~~commission~~ **division** shall establish and maintain police training programs through such agencies and institutions as the ~~commission~~ **division** may deem appropriate to carry out the intent of this subchapter.

(c) The ~~commission~~ **division** shall work with each state agency and political subdivision that adheres to the selection and training standards established by the ~~commission~~ **division** to provide allowable tuition, living, and training expenses incurred by the officers in attendance at approved training programs.

(d)(1) It is the intent of this subchapter that the expenses of attending the approved training programs established under subsection (c) of this section shall be furnished by the state through the ~~Arkansas Law Enforcement Training Academy~~ **division** or any other manner that may be prescribed by the ~~commission~~ **division**, and no cost or charge shall be made to any local political subdivision for the actual cost of the training.

(2) The state shall not be liable for the travel cost or any salary in connection with attending any training program.

(3) The ~~commission~~ **division** may accept reimbursement from any public or private entity for the use of its training facilities, equipment, or personnel during the providing of services.

(e) The expenses of attending training provided pursuant to a memorandum of understanding between the State of Arkansas and the United States Department of Justice or the United States Department of Homeland Security shall be paid in accordance with the provisions of § 12-8-104.

(f) The ~~commission~~ **division** shall administer the training and certification program for court security officers under the Arkansas Court Security Act, § 16-10-1001 et seq.

(g)(1) Persons such as doctors, nurses, firefighters, first responders, or other medical personnel, persons engaged in homeland security, or persons otherwise engaged in assisting in the protection of public welfare and safety who are not law enforcement personnel may attend training or receive instruction at the invitation of the ~~commission~~ **division**.

(2) The ~~commission~~ **division** may assess a fee on a person invited to attend training or receive instruction under this subsection to reimburse the ~~commission~~ **division** for costs associated with the training or instruction under this subsection.

SECTION 5814. Arkansas Code § 12-9-110(a), concerning the training of civilians to file parking violations and traffic accident reports, is amended to read as follows:

<< AR ST § 12-9-110 >>

(a) The Arkansas Commission on Law Enforcement Standards and Training shall by regulation establish the qualifications including minimum training standards for persons performing law enforcement-related duties pursuant to this section within cities of the first class and within other areas of the State of Arkansas for cadets that are appointed by the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5815. The introductory language of Arkansas Code § 12-9-110(b), concerning the training of civilians to file parking violations and traffic accident reports, is amended to read as follows:

<< AR ST § 12-9-110 >>

(b) Municipal police departments of cities of the first class and the ~~Department~~ **Division** of Arkansas State Police may employ persons who do not meet certification requirements prescribed by the commission, and the persons may:

SECTION 5816. The introductory language of Arkansas Code § 12-9-110(d)(2), concerning the training of civilians to file parking violations and traffic accident reports, is amended to read as follows:

<< AR ST § 12-9-110 >>

(2) However, the ~~department~~ **division** and cities of the first class may establish more stringent training requirements.

SECTION 5817. Arkansas Code § 12-9-111(a), concerning uniforms, is amended to read as follows:

<< AR ST § 12-9-111 >>

(a) The Arkansas Commission on Law Enforcement Standards and Training is exempt from § 19-6-109(c) for the purpose of buying uniforms for students and law enforcement officers employed by the ~~commission~~ **Division of Law Enforcement Standards and Training**.

SECTION 5818. Arkansas Code § 12-9-115 is amended to read as follows:

<< AR ST § 12-9-115 >>

12-9-115. Training for constables.

After consultation with the Arkansas Constable Association, the ~~Arkansas Commission on~~ **Division of Law Enforcement Standards and Training** shall develop and certify a training course of one hundred ten (110) hours to one hundred sixty (160) hours for constables in accordance with § 14-14-1314.

SECTION 5819. Arkansas Code § 12-9-117 is amended to read as follows:

<< AR ST § 12-9-117 >>

12-9-117. Award of pistol upon retirement or death of a certified law enforcement officer employed by the ~~commission~~ **division.**

(a) When a certified law enforcement officer employed by the ~~Arkansas Commission on~~ **Division of Law Enforcement Standards and Training** or a state-funded law enforcement training academy retires from service or dies while still employed with the ~~commission~~ **division** or the state-funded law enforcement training academy, in recognition of and appreciation for the service of the retiring or deceased certified law enforcement officer, the ~~commission~~ **division** or the

state-funded law enforcement training academy may award the pistol carried by the certified law enforcement officer at the time of his or her death or retirement from service to:

- (1) The certified law enforcement officer; or
 - (2) The certified law enforcement officer's spouse if the spouse is eligible under applicable state and federal laws to possess a firearm.
- (b)(1) A certified law enforcement officer employed by the ~~commission~~ **division** or a state-funded law enforcement training academy may retain his or her pistol he or she carried at the time of his or her retirement from service.
- (2) If the certified law enforcement officer dies while he or she is employed by the ~~commission~~ **division** or a state-funded law enforcement training academy, his or her spouse may receive or retain the pistol carried by the certified law enforcement officer at the time of his or her death, if the spouse is eligible under applicable state and federal laws to possess a firearm.

SECTION 5820. Arkansas Code § 12-9-119(e), concerning behavioral health crisis intervention training, is amended to read as follows:

<< AR ST § 12-9-119 >>

(e) All training required under this section and the curriculum for the training shall be developed by the **Division of Law Enforcement Standards and Training**, ~~commission~~ in collaboration with the Criminal Justice Institute.

SECTION 5821. Arkansas Code § 12-9-121(a) and (b), concerning an additional salary payment by the Arkansas Commission on Law Enforcement Standards and Training, are amended to read as follows:

<< AR ST § 12-9-121 >>

(a)(1) The ~~Arkansas Commission on~~ **Division of Law Enforcement Standards and Training** may make additional salary payments from available funds to employees of the ~~commission~~ **division** who have attained law enforcement certification above the basic certificate level, as defined by the ~~commission~~ **Division of Law Enforcement Standards and Training**.

(2) The award of an additional salary payment under this section is contingent upon the:

(A) Existence of sufficient funding independent of funding specifically set aside for other programs within the ~~commission~~ **division**; and

(B) Discretion of the Director of **the Division of Law Enforcement Standards and Training in coordination with the Secretary of the Department of Public Safety**.

(b)(1) Eligible employees of the ~~commission~~ **division** may be paid up to the following annual amounts for the respective certifications:

(A) General certificate — three hundred dollars (\$300);

(B) Intermediate certificate — six hundred dollars (\$600);

(C) Advanced certificate — nine hundred dollars (\$900); and

(D) Senior certificate — one thousand two hundred dollars (\$1,200).

(2) Payment of the additional salary amounts may be made monthly, quarterly, semiannually, or annually depending upon the availability of funding and is restricted to full-time law enforcement officers employed by the ~~commission~~ **division**.

SECTION 5822. Arkansas Code § 12-9-202 is amended to read as follows:

<< AR ST § 12-9-202 >>

12-9-202. Location of academy.

The Arkansas Law Enforcement Training Academy shall be located at a place which, in the opinion of the **Director of the Arkansas Commission on Division of Law Enforcement Standards and Training**, will serve the best interests of the state in the carrying out of the intent and purposes of this subchapter.

SECTION 5823. Arkansas Code § 12-9-203(a), concerning the disposition and acceptance of gifts and grants, is amended to read as follows:

<< AR ST § 12-9-203 >>

(a) The ~~Arkansas Commission on~~ **Division of Law Enforcement Standards and Training** may accept gifts, grants, donations, equipment and materials, and bequests of money or gratuities donated by private persons or corporations.

SECTION 5824. Arkansas Code § 12-9-204(a)(1) and (2), concerning the law enforcement powers of the Arkansas Commission on Law Enforcement Standards and Training, are amended to read as follows:

<< AR ST § 12-9-204 >>

(1) The Director of **the Division of Law Enforcement Standards and Training**;

(2) Employees of the ~~commission~~ **Division of Law Enforcement Standards and Training** appointed by the Director of **the Division of Law Enforcement Standards and Training** as law enforcement officers;

SECTION 5825. Arkansas Code § 12-9-204(c), concerning the law enforcement powers of the Arkansas Commission on Law Enforcement Standards and Training, is amended to read as follows:

<< AR ST § 12-9-204 >>

(c) The personnel described in subsection (a) of this section shall:

(1) Be credited with service toward maintaining and increasing certification levels for time employed at the ~~commission~~ **Arkansas Commission on Law Enforcement Standards and Training or the division** and the Black River Technical College Law Enforcement Training Academy; and

(2) Receive credit for years of law enforcement service for time employed at the ~~commission~~ **or the division**, the Arkansas Police Corps Training Program at the University of Arkansas at Little Rock, or the Black River Technical College Law Enforcement Training Academy upon employment as law enforcement officers elsewhere in the State of Arkansas.

SECTION 5826. Arkansas Code § 12-9-210 is amended to read as follows:

<< AR ST § 12-9-210 >>

12-9-210. Designated law enforcement agencies.

The ~~Arkansas Commission on~~ **Division of** Law Enforcement Standards and Training and the Black River Technical College Law Enforcement Training Academy are designated as law enforcement agencies.

SECTION 5827. Arkansas Code § 12-9-211(b)(2), concerning the ability of private college or university law enforcement officers to attend the Arkansas Law Enforcement Training Academy, is amended to read as follows:

<< AR ST § 12-9-211 >>

(2) Reimburse the ~~Arkansas Commission on~~ **Division of** Law Enforcement Standards and Training for any cost associated with the private college or university law enforcement officer's training or instruction at the academy.

SECTION 5828. Arkansas Code § 12-9-602(a)(1), concerning the response by the law enforcement officer and the duty of the Arkansas Commission on Law Enforcement Standards and Training, for a notice of employment, appointment, or separation, is amended to read as follows:

<< AR ST § 12-9-602 >>

(a)(1)(A) An employing agency shall immediately notify the ~~Arkansas Commission on~~ **Division of** Law Enforcement Standards and Training in writing, on a form adopted by the ~~commission~~ **division**, of the employment or appointment, or separation from employment or appointment, of any law enforcement officer.

(B) The employing agency must maintain the original form and submit, or electronically transmit, a copy of the form to the ~~commission~~ **division**.

SECTION 5829. Arkansas Code § 12-9-602(b)(1)(A) and (B), concerning the response by the law enforcement officer and the duty of the Arkansas Commission on Law Enforcement Standards and Training, for a notice of employment, appointment, or separation, are amended to read as follows:

<< AR ST § 12-9-602 >>

(b)(1)(A) In a case of separation from employment or appointment, the employing agency shall execute and maintain an affidavit-of-separation form adopted by the ~~commission~~ **division**, setting forth in detail the facts and reasons for such separation.

(B) A copy of the affidavit-of-separation form must be submitted, or electronically transmitted, to the ~~commission~~ **division**.

SECTION 5830. Arkansas Code § 12-9-602(b)(3), concerning the response by the law enforcement officer and the duty of the Commission on Law Enforcement Standards and Training, for a notice of employment, appointment, or separation, is amended to read as follows:

<< AR ST § 12-9-602 >>

(3) Any law enforcement officer who has separated from employment or appointment must be permitted to respond to the separation, in writing, to the ~~commission~~ **division**, setting forth the facts and reasons for the separation as he or she understands them.

SECTION 5831. Arkansas Code § 12-9-602(c), concerning the response by the law enforcement officer and the duty of the Commission on Law Enforcement Standards and Training, for a notice of employment, appointment, or separation, is amended to read as follows:

<< AR ST § 12-9-602 >>

(c)(1) Before employing or appointing a law enforcement officer, a subsequent employing agency must contact the ~~commission~~ **division** to inquire as to the facts and reasons a law enforcement officer became separated from any previous employing agency.

(2) The ~~commission~~ **division** shall, upon request and without prejudice, provide to the subsequent employing agency all information that is required under subsections (a) and (b) of this section and that is in its possession.

SECTION 5832. Arkansas Code § 12-9-602(e), concerning the response by the law enforcement officer and the duty of the Commission on Law Enforcement Standards and Training, for a notice of employment, appointment, or separation, is amended to read as follows:

<< AR ST § 12-9-602 >>

(e)(1) The ~~commission, its members,~~ **division** and its employees who disclose information pursuant to this section are immune from civil liability for such disclosure or its consequences.

(2) The ~~commission, its members,~~ **division** and its employees shall not be civilly liable for:

(A) Disclosure of information under this subchapter; or

(B) Performing any other duties under this subchapter.

SECTION 5833. Arkansas Code § 12-10-203 is amended to read as follows:

<< AR ST § 12-10-203 >>

12-10-203. Policy committee.

(a) A seven-member policy committee composed of two (2) representatives each from the Arkansas Sheriffs' Association, the Arkansas Chiefs of Police Association, and the Arkansas Law Enforcement Officers Association and one (1) representative from the ~~Department~~ **Division** of Arkansas State Police will be responsible for policy making and for policing a statewide communication system.

(b) Members of the policy committee will be appointed by the presidents of the respective law enforcement associations and the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5834. Arkansas Code § 12-10-318(c)(1)(D), concerning the imposition and liability for emergency telephone service charges and the establishment of the Arkansas Emergency Telephone Services Board, is amended to read as follows:

<< AR ST § 12-10-318 >>

(D) The Director of the ~~Arkansas Department~~ **Division** of Emergency Management or the director's designee;

SECTION 5835. Arkansas Code § 12-10-318(c)(2)(B)(i)(b), concerning the imposition and liability for emergency telephone service charges and the establishment of the Arkansas Emergency Telephone Services Board, is amended to read as follows:

<< AR ST § 12-10-318 >>

(b) Each state fiscal year, two hundred thousand dollars (\$200,000) of the total monthly revenues collected and remitted under subdivision (c)(2)(B)(i)(a) of this section shall be transferred and deposited to the credit of the books of the Treasurer of State and the Auditor of State for the Miscellaneous Agencies Fund Account for the ~~Arkansas Commission on~~ **Division of** Law Enforcement Standards and Training, to be used exclusively for training and all related costs under § 12-10-325;

SECTION 5836. Arkansas Code § 12-10-325(a)(1) and (2), concerning training standards, are amended to read as follows:

<< AR ST § 12-10-325 >>

(a)(1) A public safety agency, a public safety answering point, a dispatch center, or a 911 public safety communications center may provide training opportunities for 911 public safety communications center personnel through the ~~Arkansas Commission on~~ **Division of** Law Enforcement Standards and Training and the ~~Arkansas Law Enforcement Training Academy~~ .

(2) The ~~Arkansas Law Enforcement Training Academy~~ **division** shall develop training standards for dispatchers, supervisors, and instructors in Arkansas in consultation with the Association of Public-Safety-Communications Officials-International, Inc., and submit the training standards to the Arkansas Commission on Law Enforcement Standards and Training for approval.

SECTION 5837. Arkansas Code § 12-10-325(b), concerning training standards for 911 public safety communications center personnel, is amended to read as follows:

<< AR ST § 12-10-325 >>

(b)(1) A private safety agency may attend training or receive instruction at the invitation of the ~~commission~~ **division**.

(2) The ~~commission~~ **division** may assess a fee on a private safety agency invited to attend training or receive instruction under this subsection to reimburse the ~~commission~~ **division** for costs associated with the training or instruction.

SECTION 5838. Arkansas Code § 12-12-103(c)(1)(B), concerning pawnshop records and penalties, is amended to read as follows:

<< AR ST § 12-12-103 >>

(B) The Director of the ~~Department~~ **Division** of Arkansas State Police, a member of the ~~Department~~ **Division** of Arkansas State Police, a county sheriff or deputy of the county, or a police officer of the municipality in which the pawnshop or pawnbroker is located shall have access to the records at any reasonable time.

SECTION 5839. Arkansas Code § 12-12-105(d), concerning controlled substance laboratory seizure reports, is amended to read as follows:

<< AR ST § 12-12-105 >>

(d)(1) The ~~Executive~~ Director of the State Crime Laboratory shall catalogue the number of controlled substance laboratories reported to the State Crime Laboratory through evidence submission.

(2) For each reported controlled substance laboratory, the ~~Executive~~ Director of the State Crime Laboratory shall record the:

(A) Judicial district where the laboratory was located;

(B) Date of seizure of the laboratory; and

(C) Name of the seizing law enforcement agency.

SECTION 5840. Arkansas Code § 12-12-201 is amended to read as follows:

<< AR ST § 12-12-201 >>

12-12-201. Creation — Director.

(a) There is created the Arkansas Crime Information Center, under the supervision of the Supervisory Board for the Arkansas Crime Information Center established by this subchapter.

(b) This center shall consist of a ~~director~~ **the Director of the Arkansas Crime Information Center** and such other staff **of the Department of Public Safety** under the general supervision of the director as may be necessary to administer the services of this subchapter, subject to the approval of funds authorized by the General Assembly.

(c) The board shall name the director **in consultation with the Secretary of the Department of Public Safety.**

SECTION 5841. Arkansas Code § 12-12-202(b)(9), concerning members and meetings of the Supervisory Board for the Arkansas Crime Information Center, is amended to read as follows:

<< AR ST § 12-12-202 >>

(9) The Director of the ~~Department~~ **Division** of Correction or his or her designated agent;

SECTION 5842. Arkansas Code § 12-12-202(b)(12), concerning members and meetings of the Supervisory Board for the Arkansas Crime Information Center, is amended to read as follows:

<< AR ST § 12-12-202 >>

(12) The Director of the ~~Department~~ **Division** of Arkansas State Police or his or her designated agent; and

SECTION 5843. Arkansas Code § 12-12-304 is amended to read as follows:

<< AR ST § 12-12-304 >>

12-12-304. ~~Executive director~~ Director of the State Crime Laboratory.

(a)(1) The State Crime Laboratory shall be headed by ~~an executive~~ **a** director who shall be appointed by the Governor **and who shall serve at the pleasure of the Governor.**

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

(b) The ~~Executive~~ Director of the State Crime Laboratory may delegate specific duties to competent and qualified associates, assistants, and deputies who may act for the ~~executive~~ director within the scope of the authority granted him or her, subject, however, to such rules and regulations as may be prescribed by the State Crime Laboratory Board.

(c) The board shall prescribe the duties, responsibilities, compensation, and qualifications for the ~~executive~~ director.

SECTION 5844. Arkansas Code § 12-12-305(a), concerning the functions, housing, and equipment of the State Crime Laboratory, is amended to read as follows:

<< AR ST § 12-12-305 >>

(a) There shall be established under the supervision of the ~~Executive~~ Director of the State Crime Laboratory a central office and laboratory facility sufficient and adequate to house the various functions of the State Crime Laboratory as set out in this subchapter and as may be necessary and proper for the laboratory to perform in carrying out its official duties and functions as provided by law.

SECTION 5845. Arkansas Code § 12-12-306 is amended to read as follows:

<< AR ST § 12-12-306 >>

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 5846. 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:

<< AR ST § 12-12-309 >>

(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 5847. Arkansas Code § 12-12-311(b) and (c), concerning cooperation with the staff of the State Crime Laboratory, are amended to read as follows:

<< AR ST § 12-12-311 >>

(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-rays of the deceased as may be requested where death occurs and an investigation is being conducted under the provisions of this subchapter.

SECTION 5848. Arkansas Code § 12-12-313(a), concerning records as evidence and analyst's testimony, is amended to read as follows:

<< AR ST § 12-12-313 >>

(a) The records and reports of autopsies, evidence analyses, drug analyses, and any investigations made by the State Crime Laboratory under the authority of this subchapter shall be received as competent evidence as to the matters contained therein in the courts of this state subject to the applicable rules of criminal procedure or civil procedure when duly attested to by the Executive Director of the State Crime Laboratory or his or her assistants, associates, or deputies.

SECTION 5849. Arkansas Code § 12-12-316(c), concerning the transportation of corpses by the State Crime Laboratory, is amended to read as follows:

<< AR ST § 12-12-316 >>

(c) The laboratory shall provide transportation or shall bear the cost of transportation at the option of the Executive Director of the State Crime Laboratory, but in no case shall the cost of transportation of dead bodies subject to the provisions of this subchapter be borne by the laboratory without the prior approval and authorization of the executive director or his or her staff.

SECTION 5850. Arkansas Code § 12-12-318(a)(2)(A), concerning the authorization and restrictions on examinations, investigations, and postmortem examinations, is amended to read as follows:

<< AR ST § 12-12-318 >>

(2)(A) The laboratory shall make examinations, investigations, or perform postmortem examinations to determine the cause of death as the Executive Director of the State Crime Laboratory or his or her staff deems necessary or as may be requested by the:

- (i) County coroner of the county in which death occurs or is discovered;
- (ii) Prosecuting attorney of the jurisdiction in which death occurs or is discovered;
- (iii) County sheriff of the county in which death occurs or is discovered;
- (iv) Chief of police of the city in which death occurs or is discovered;
- (v) Board of Corrections or its designee, or the Director of the ~~Department~~ **Division** of Correction or his or her designee if the person was in the care, custody, or control of the ~~Department~~ **Division** of Correction at the time of death; or
- (vi) Director of the ~~Department~~ **Division** of Arkansas State Police or his or her designee.

SECTION 5851. Arkansas Code § 12-12-318(d) and (e), concerning the authorization and restrictions on examinations, investigations, and postmortem examinations, are amended to read as follows:

<< AR ST § 12-12-318 >>

(d) The ~~executive director~~ **Director of the State Crime Laboratory** and his or her staff shall not, as a part of their official duties, perform any postmortem examination at the request of any private citizen or any public official other than those enumerated in this section.

(e) The provisions of this section shall supersede any and all other laws relating to the power and authority of the ~~executive director~~ **Director of the State Crime Laboratory** or his or her staff, including the examiner, to conduct examinations, investigations, or postmortem examinations.

SECTION 5852. Arkansas Code § 12-12-318(f)(1) and (2), concerning the authorization and restrictions on examinations, investigations, and postmortem examinations, are amended to read as follows:

<< AR ST § 12-12-318 >>

(f)(1) The ~~executive director~~ **Director of the State Crime Laboratory** shall have the final authority on any ruling of manner of death which may become a matter of dispute between those persons authorized by this section to request a post-mortem examination as described in § 12-12-315 and the examiner or his or her associates.

(2) The ~~executive director~~ **Director of the State Crime Laboratory** shall use any and all material accumulated by the laboratory, interview all parties necessary, and consult with any medical authority necessary for him or her to make his or her decision as to the manner of death, and his or her ruling shall be final and binding as that ruling affects any documents generated and signed by any employee of the laboratory relating to manner of death.

SECTION 5853. Arkansas Code § 12-12-319(b), concerning embalming a corpse subject to examination, investigation, or autopsy, is amended to read as follows:

<< AR ST § 12-12-319 >>

(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 5854. Arkansas Code § 12-12-322(a)(5), concerning hazardous duty pay, is amended to read as follows:

<< AR ST § 12-12-322 >>

(5) Payment will be controlled by the Executive Director of the State Crime Laboratory.

SECTION 5855. Arkansas Code § 12-12-324(c), concerning testing by the State Crime Laboratory, is amended to read as follows:

<< AR ST § 12-12-324 >>

(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 5856. 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:

<< AR ST § 12-12-326 >>

(ii) The ~~Department~~ **Division** of Arkansas State Police; or

SECTION 5857. Arkansas Code § 12-12-1010(a)(2)(A), concerning dissemination of criminal history information for other purposes, is amended to read as follows:

<< AR ST § 12-12-1010 >>

(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

SECTION 5858. Arkansas Code § 12-12-1507 is amended to read as follows:

<< AR ST § 12-12-1507 >>

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 5859. Arkansas Code § 12–13–102(2), concerning the definition of “director” under the Fire Prevention Act, is repealed.

<< AR ST § 12–13–102 >>

(2) “Director” means the ~~Director of the Department of Arkansas State Police~~;

SECTION 5860. Arkansas Code § 12–13–102(5), concerning the definition of “officer” under the Fire Prevention Act, is amended to read as follows:

<< AR ST § 12–13–102 >>

(5) “Officer” means an officer of the ~~Department~~ **Division** of Arkansas State Police whom the ~~director~~ **Director of the Division of Arkansas State Police** may appoint or designate to execute the powers and perform the duties specified in this subchapter and also includes all peace officers as defined in subdivision (7) of this section;

SECTION 5861. Arkansas Code § 12–13–104 is amended to read as follows:

<< AR ST § 12–13–104 >>

12–13–104. Administration and enforcement.

(a) The administration and enforcement of this subchapter are vested in the ~~Department~~ **Division** of Arkansas State Police.

(b) The Director of the ~~Department~~ **Division** of Arkansas State Police is empowered to create and maintain a State Fire Marshal Enforcement Section in the ~~Department~~ **Division** of Arkansas State Police and to appoint such personnel with such duties, powers, and titles as he or she may deem necessary for the proper administration and enforcement of this subchapter.

SECTION 5862. Arkansas Code § 12–13–106 is amended to read as follows:

<< AR ST § 12–13–106 >>

12-13-106. Section personnel.

The members or heads of the State Fire Marshal Enforcement Section shall be appointed and serve in the same manner as provided by law for the operation of other divisions of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5863. The introductory language of Arkansas Code § 12-13-107(a) concerning the duties of the Director of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 12-13-107 >>

(a) It shall be the duty of the Director of the ~~Department~~ **Division** of Arkansas State Police and his or her officers and deputies to enforce all laws and ordinances with regard to the following:

SECTION 5864. Arkansas Code § 12-13-108 is amended to read as follows:

<< AR ST § 12-13-108 >>

12-13-108. Ex officio deputies.

All mayors, members of fire departments, and peace officers shall be ex officio deputies to the Director of the ~~Department~~ **Division** of Arkansas State Police. They shall be subject to the duties and obligations imposed by this subchapter in fire prevention and in the investigation of the cause, origin, and circumstances of fires within their jurisdiction.

SECTION 5865. Arkansas Code § 12-13-109 is amended to read as follows:

<< AR ST § 12-13-109 >>

12-13-109. Fire drills.

It shall be the duty of the Director of the ~~Department~~ **Division** of Arkansas State Police, his or her officers, and deputies to require teachers of public and private schools and all educational institutions to have one (1) fire drill each month and to keep all doors and exits unlocked during school hours.

SECTION 5866. Arkansas Code § 12-13-110(a)(1), concerning the inspection of buildings by the Director of the Department of Arkansas State police and his or her officers or deputies, is amended to read as follows:

<< AR ST § 12-13-110 >>

(a)(1) Upon complaint of any person or on their own motion, the Director of the ~~Department~~ **Division** of Arkansas State Police and his or her officers or deputies may inspect all buildings and premises within their jurisdiction and issue an order for the compliance with the director's regulations.

SECTION 5867. Arkansas Code § 12-13-111(a)(1), concerning the investigation of fires by the deputies of the Director of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 12-13-111 >>

(a)(1) The deputies to the Director of the ~~Department~~ **Division** of Arkansas State Police shall investigate each fire causing loss of life or damage to property within their jurisdiction to determine if the fire was caused by negligence or design.

SECTION 5868. Arkansas Code § 12-13-112(a), concerning inquires by the Director of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 12-13-112 >>

(a) When the Director of the ~~Department~~ **Division** of Arkansas State Police or any officer or deputy has reason to believe that a crime or other offense has been committed in connection with any fire, the director or his or her deputy may conduct an inquiry in relation thereto.

SECTION 5869. 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:

<< AR ST § 12-13-114 >>

(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 5870. Arkansas Code § 12-13-115 is amended to read as follows:

<< AR ST § 12-13-115 >>

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 5871. Arkansas Code § 12-15-202(a)(7), concerning eligibility to carry a concealed handgun, is amended to read as follows:

<< AR ST § 12-15-202 >>

(7) Has fingerprint impressions on file with the ~~Department~~ **Division** of Arkansas State Police Automated Fingerprint Identification System.

SECTION 5872. Arkansas Code § 12-15-202(b)(2)(B), concerning eligibility to carry a concealed handgun, is amended to read as follows:

<< AR ST § 12-15-202 >>

(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 5873. Arkansas Code § 12-18-301(b), concerning the creation of the Child Abuse Hotline, is amended to read as follows:

<< AR ST § 12-18-301 >>

(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.

SECTION 5874. Arkansas Code § 12-18-1202 is amended to read as follows:

<< AR ST § 12-18-1202 >>

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 5875. Arkansas Code § 12-75-109 is amended to read as follows:

<< AR ST § 12-75-109 >>

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 Management~~ **director** shall establish training and professional standards required to supplement state personnel based on state and federal disaster recovery program needs and shall establish a list of persons with those qualifications and make available to emergency reserve cadre personnel such additional training and education opportunities as may be needed to maintain currency and proficiency in the needed skills.

(3)(A) Emergency reserve cadre personnel shall be reimbursed at the current state classified entry level salary rate for the position they are temporarily employed to fill and meet such additional training, experience, and qualifications as established by the director for the grade level of the position for which they are employed.

(B) Emergency reserve cadre personnel shall:

(i) Be paid from disaster management funds or administrative funds, or both;

(ii) Be limited to salary, logistical, and travel expenses only; and

(iii) Not accrue ordinary leave, sick leave, or other employee benefits except for workers' compensation eligibility for injuries or death suffered in the line of duty.

(4)(A) Emergency reserve cadre personnel may be called to active duty upon declaration of a disaster emergency as stipulated in this chapter or the Disaster Relief Act of 1974, Pub. L. No. 93-288, or both, or by executive order of the Governor upon recommendation by the director for due cause or pending emergency needs or for disaster-related assistance to the ~~Arkansas Department~~ **Division** of Emergency Management as determined by the director and shall remain on active duty no longer than the maximum allowed by the Office of Personnel Management ~~of the Division of Management Services of the Department of Finance and Administration~~ for part-time employment status.

(B) Based on the size, impact, and magnitude of the disaster event, the director shall determine the minimum number of emergency reserve cadre personnel required to effectively supplement regular state emergency management personnel.

(5) While in service described in subdivision (d)(4)(A) of this section, the emergency reserve cadre personnel have the same immunities as regular state employees for good faith performance of their designated and assigned official duties under state sovereignty laws and practices.

SECTION 5876. The introductory language of Arkansas Code § 12-75-110(a), concerning the state emergency operations plan and the Arkansas Department of Emergency Management, is amended to read as follows:

<< AR ST § 12-75-110 >>

(a) The ~~Arkansas Department~~ **Division** of Emergency Management shall coordinate and maintain a state emergency operations plan and keep it current, which plan may include:

SECTION 5877. Arkansas Code § 12-75-110(b) and (c), concerning the state emergency operations plan and the Arkansas Department of Emergency Management, are amended to read as follows:

<< AR ST § 12-75-110 >>

(b)(1) In preparing and revising the state emergency operations plan, the ~~department~~ **division** shall seek the advice and assistance of state agencies, local government, business, labor, industry, agriculture, civic, and volunteer organizations, and community leaders.

(2) In advising local and jurisdictional agencies, the ~~department~~ **division** shall encourage them also to seek advice from the entities listed in subdivision (b)(1) of this section.

(c) The state emergency operations plan or any part of the state emergency operations plan may be incorporated in rules of the ~~department~~ **division** or executive orders that have the force and effect of law.

SECTION 5878. The introductory language of Arkansas Code § 12-75-111(a), concerning the powers and duties of the Arkansas Department of Emergency Management, is amended to read as follows:

<< AR ST § 12-75-111 >>

(a) The ~~Arkansas Department~~ **Division** of Emergency Management shall, with the assistance and cooperation of other state and local government agencies:

SECTION 5879. Arkansas Code § 12-75-111(b), concerning the powers and duties of the Arkansas Department of Emergency Management, is amended to read as follows:

<< AR ST § 12-75-111 >>

(b)(1) The ~~department~~ **division** shall take an integral part in the development and revision of local and interjurisdictional emergency operations plans prepared under § 12-75-118.

(2)(A) To meet the requirements of subdivision (b)(1) of this section, the ~~department~~ **division** shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their local offices of emergency management, interjurisdictional planning, and interjurisdictional offices of emergency management.

(B) Personnel described in subdivision (b)(2)(A) of this section shall consult with political subdivisions, local offices of emergency management, and interjurisdictional offices of emergency management on a regularly scheduled basis and shall make field examinations of the area, circumstances, and conditions to which particular local and interjurisdictional emergency operations plans are intended to apply and may suggest or require revisions.

SECTION 5880. Arkansas Code § 12-75-112 is amended to read as follows:

<< AR ST § 12-75-112 >>

12-75-112. Communications networks.

(a) The ~~Arkansas Department~~ **Division** of Emergency Management shall operate and maintain information systems which will make available both voice and data links with federal agencies, other states, and state agencies as are assigned an emergency management role in the state emergency operations plan and local offices of emergency management.

(b) In addition to the minimum requirements of subsection (a) of this section, additional information systems networks may be established as deemed necessary by the Director of the ~~Arkansas Department~~ **Division** of Emergency Management.

SECTION 5881. Arkansas Code § 12-75-113(a), concerning emergency response vehicles, is amended to read as follows:

<< AR ST § 12-75-113 >>

(a) Due to the time-critical nature of response to the scene of a disaster or major emergency occurrence, the Director of the ~~Arkansas Department~~ **Division** of Emergency Management may designate appropriate vehicles as requested in the staffing patterns of the state offices of emergency management and local offices of emergency management and designate other state agency vehicles with an emergency management response requirement as emergency response vehicles.

SECTION 5882. Arkansas Code § 12-75-114(c)(8), concerning disaster emergency responsibilities of the Governor, is amended to read as follows:

<< AR ST § 12-75-114 >>

(8) Expenditures from the emergency response fund shall be made by executive order of the Governor, upon recommendation and verification by the Director of the ~~Arkansas Department~~ **Division** of Emergency Management, and may only be made to defray immediate costs associated with response activities by emergency forces of state and local governments and private nonprofit forces duly registered in accordance with § 12-75-129.

SECTION 5883. Arkansas Code § 12-75-115(a)(3), concerning disaster prevention, is amended to read as follows:

<< AR ST § 12-75-115 >>

(3) Studies under subdivision (a)(2) of this section shall be furnished to the Governor and the ~~Arkansas Department~~ **Division** of Emergency Management as soon as possible after completion and shall concentrate on means of reducing or avoiding damage caused by possible disasters or the consequences of possible disasters.

SECTION 5884. Arkansas Code § 12-75-115(b)(1), concerning disaster prevention, is amended to read as follows:

<< AR ST § 12-75-115 >>

(b)(1) If the ~~department~~ **division** believes, on the basis of the studies or other competent evidence, that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land use control in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor.

SECTION 5885. Arkansas Code § 12-75-116(a)(2), concerning liaison officers and state and local governmental entities, is amended to read as follows:

<< AR ST § 12-75-116 >>

(2) In furtherance of the policy described in subdivision (a)(1) of this section, the head of each state department, commission, agency, or institution with an emergency management role or responsibility shall appoint a member or members of his or her staff as agency emergency management liaison officer or officers to act on his or her behalf in ensuring the agency's capability to fulfill its role in emergency management activities and shall ensure that the ~~Arkansas Department~~ **Division** of Emergency Management is notified of any change in the appointment.

SECTION 5886. Arkansas Code § 12-75-116(b)(1) and (2), concerning liaison officers and state and local governmental entities, are amended to read as follows:

<< AR ST § 12-75-116 >>

(1) Maintain close and continuous liaison with the ~~department~~ **division**, as applicable;

(2) Prepare agency annexes to the state and, as applicable, local emergency operations plans which are compatible with this chapter and with guidance provided by the ~~department~~ **division**;

SECTION 5887. Arkansas Code § 12-75-116(b)(5), concerning liaison officers and state and local governmental entities, is amended to read as follows:

<< AR ST § 12-75-116 >>

(5) Ensure that the agency can respond promptly and cooperatively with other agencies in any disaster or major emergency situation under the overall management of the ~~department~~ **division**;

SECTION 5888. Arkansas Code § 12-75-116(c), concerning liaison officers and state and local governmental entities, are amended to read as follows:

<< AR ST § 12-75-116 >>

(c) As conditions or situations may require or dictate, the Director of the ~~Arkansas Department~~ **Division** of Emergency Management may request a state department, agency, or institution not currently participating in the emergency management liaison officer program to appoint an officer in accordance with this section.

SECTION 5889. The introductory language of Arkansas Code § 12-75-117(a)(2), concerning interjurisdictional disaster planning and service areas, is amended to read as follows:

<< AR ST § 12-75-117 >>

(2) A finding of the Governor pursuant to this subsection shall be based on an assessment conducted by the Director of the ~~Arkansas Department~~ **Division** of Emergency Management using one (1) or more factors related to the difficulty of maintaining an efficient, effective, and economical system for disaster and emergency preparedness, mitigation, response, and recovery such as:

SECTION 5890. Arkansas Code § 12-75-118(a)(1), concerning local and interjurisdictional offices of emergency management services, is amended to read as follows:

<< AR ST § 12-75-118 >>

(a)(1) Each political subdivision within this state shall be within the jurisdiction of and served by the ~~Arkansas Department~~ **Division** of Emergency Management and by a local office of emergency management or interjurisdictional office of emergency management.

SECTION 5891. Arkansas Code § 12-75-118(c), concerning local and interjurisdictional offices of emergency management services, is amended to read as follows:

<< AR ST § 12-75-118 >>

(c)(1) The Governor shall determine if additional municipal local offices of emergency management or interjurisdictional offices of emergency management are required based on an assessment conducted by the Director of the ~~Arkansas Department~~ **Division** of Emergency Management using one (1) or more of the factors enumerated in § 12-75-117(a).

(2) The ~~department~~ **division** shall publish and keep current a list of municipalities required to have local offices of emergency management or interjurisdictional offices of emergency management under this subsection.

SECTION 5892. Arkansas Code § 12-75-118(f)(2), concerning local and interjurisdictional offices of emergency management services, is amended to read as follows:

<< AR ST § 12-75-118 >>

(2) The chief executive of a political subdivision shall notify the ~~department~~ **division** of the manner in which the political subdivision is providing or securing disaster planning and emergency management, provide a staffing pattern for the local office of emergency management, identify the person who heads the local office of emergency management, and furnish additional information relating thereto as the ~~department~~ **division** requires.

SECTION 5893. Arkansas Code § 12-75-118(g)(2)(B), concerning local and interjurisdictional offices of emergency management services, is amended to read as follows:

<< AR ST § 12-75-118 >>

(B) The emergency operations plan shall then be submitted to the ~~department~~ **division** for approval prior to implementation.

SECTION 5894. Arkansas Code § 12-75-118(j)(1), concerning local and interjurisdictional offices of emergency management services, is amended to read as follows:

<< AR ST § 12-75-118 >>

(j)(1) Local offices of emergency management shall operate and maintain as a minimum an information systems link with the ~~department~~ **division**.

SECTION 5895. Arkansas Code § 12-75-119(a)(2)(C), concerning a statewide mutual aid system, is amended to read as follows:

<< AR ST § 12-75-119 >>

(C) The chief executive officer of the governing body shall provide a copy of the resolution to the ~~Arkansas Department~~ **Division** of Emergency Management within ten (10) days of the enactment of the resolution.

SECTION 5896. Arkansas Code § 12-75-119(c)(3), concerning a statewide mutual aid system, is amended to read as follows:

<< AR ST § 12-75-119 >>

(3)(A) A request for assistance is not required to be reported to the ~~department~~ **division** in advance of or concurrent with the request.

(B) However, a request for assistance shall be reported to the ~~department~~ **division** in writing as soon as practical.

SECTION 5897. Arkansas Code § 12-75-119(d)(3)(A), concerning a statewide mutual aid system, is amended to read as follows:

<< AR ST § 12-75-119 >>

(3)(A) An emergency responder from a participating emergency jurisdiction responding to a request for assistance from another participating emergency jurisdiction shall remain under the command control of his or her home jurisdiction, including use of medical protocols, standard operating procedures, and other protocols and procedures identified by the department **division**.

SECTION 5898. Arkansas Code § 12-75-119(f)(1)(B) and (C), concerning a statewide mutual aid system, are amended to read as follows:

<< AR ST § 12-75-119 >>

(B) A request for reimbursement shall be made in accordance with procedures developed by the Arkansas Homeland Security Advisory Group and adopted by the department **division** as a rule under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(C) The department **division** shall not provide reimbursement for expenses associated with training exercises except in accordance with applicable rules.

SECTION 5899. Arkansas Code § 12-75-126(b), concerning public safety officers, is amended to read as follows:

<< AR ST § 12-75-126 >>

(b) The Director of the ~~Arkansas Department~~ **Division** of Emergency Management and persons he or she may designate from the state and local offices of emergency management staffing patterns shall be sworn public safety officers as defined and limited by this chapter.

SECTION 5900. Arkansas Code § 12-75-126(d)(1)(A), concerning public safety officers, is amended to read as follows:

<< AR ST § 12-75-126 >>

(d)(1)(A) The director may determine what constitutes an ~~Arkansas Department~~ **the Division** of Emergency Management uniform for department **division** personnel.

SECTION 5901. Arkansas Code § 12-75-126(d)(2), concerning public safety officers, is amended to read as follows:

<< AR ST § 12-75-126 >>

(2) The uniform may include a badge or identification card, or both, of appropriate design and dimensions to identify local office of emergency management personnel as bona fide emergency management workers within their jurisdiction and department **division** personnel as bona fide emergency workers for the state.

SECTION 5902. Arkansas Code § 12-75-126(e), concerning public safety officers, is amended to read as follows:

<< AR ST § 12-75-126 >>

(e) Any person issued or provided a badge, identification, or uniform described in subsection (d) of this section shall wear, carry, or display it at such times and places as shall be designated or required by the chief executive of the local jurisdiction for local office of emergency management personnel and by the director for ~~department~~ **division** personnel.

SECTION 5903. Arkansas Code § 12-75-129(a)(1)(B)(ii)(b), concerning workers' compensation benefits for emergency responders, is amended to read as follows:

<< AR ST § 12-75-129 >>

(b) ~~Arkansas Department~~ **Division** of Emergency Management; or

SECTION 5904. Arkansas Code § 12-75-129(f), concerning workers' compensation benefits for emergency responders, is amended to read as follows:

<< AR ST § 12-75-129 >>

(f) An emergency responder shall be deemed duly registered and qualified when he or she is a member of and has on file in either a local office of emergency management or in the ~~Arkansas Department of Emergency Management~~ **division** the following information:

- (1) Name and address;
- (2) Date enrolled; and
- (3) Class of service assigned.

SECTION 5905. Arkansas Code § 12-75-131(a)(1), concerning disaster relief pay from the Arkansas Department of Emergency Management, is amended to read as follows:

<< AR ST § 12-75-131 >>

(a)(1) The ~~Arkansas Department~~ **Division** of Emergency Management is authorized to provide special compensation to certain employees for each full pay period of eighty (80) hours worked in a job which requires the provision of on-site emergency disaster relief services in cases of wartime, human-made, or natural disasters.

SECTION 5906. Arkansas Code § 12-75-131(a)(3)(B), concerning disaster relief pay from the Arkansas Department of Emergency Management, is amended to read as follows:

<< AR ST § 12-75-131 >>

(B) Payment will be controlled through personnel actions by the Director of the ~~Arkansas Department~~ **Division** of Emergency Management.

SECTION 5907. Arkansas Code § 12-75-132(a)-(c), concerning the creation of the Arkansas Homeland Security Advisory Group, are amended to read as follows:

<< AR ST § 12-75-132 >>

(a) There is created an advisory body to the ~~Arkansas Department~~ **Division** of Emergency Management, to be known as the “Arkansas Homeland Security Advisory Group”.

(b) The advisory group shall consist of representatives of federal, state, and local agencies and professional associations as determined by the Director of the ~~Arkansas Department~~ **Division** of Emergency Management. The advisory group shall include, at a minimum, representatives of the following:

- (1) ~~Arkansas Department~~ **Division** of Emergency Management;
- (2) **The** Arkansas Ambulance Association;
- (3) Arkansas Association of Chiefs of Police;
- (4) Arkansas Association of Fire Chiefs;
- (5) Arkansas Citizen Corps Point of Contact;
- (6) ~~Arkansas Department~~ **Division** of Environmental Quality;
- (7) Department of Health;
- (8) Arkansas Emergency Management Association, Inc.;
- (9) Arkansas Highway Police Division of the Arkansas Department of Transportation;
- (10) ~~Arkansas Livestock and Poultry Commission~~ **Department of Agriculture**;
- (11) Arkansas Municipal League;
- (12) National Guard;
- (13) 61st Civil Support Team of the **Arkansas** National Guard;
- (14) Arkansas Sheriffs' Association;
- (15) ~~Department~~ **Division** of Arkansas State Police;
- (16) ~~State Plant Board~~;
- (16) County Judges Association of Arkansas;
- (18) **(17)** Centers for Disease Control and Prevention;
- (19) **(18)** ~~Department~~ Division of Information Systems;
- (20) **(19)** Federal Bureau of Investigation;

(21) **(20)** Health Resources and Services Administration of the United States Department of Health and Human Services;

(22) **(21)** United States Secret Service;

(23) **(22)** United States Attorney for the Eastern District of Arkansas; and

(24) **(23)** United States Attorney for the Western District of Arkansas.

(c) A representative of the ~~Arkansas Department~~ **Division** of Emergency Management shall serve as chair of the advisory group.

SECTION 5908. Arkansas Code § 12-75-132(f)(3), concerning the creation of the Arkansas Homeland Security Advisory Group, is amended to read as follows:

<< AR ST § 12-75-132 >>

(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 5909. Arkansas Code § 12-78-105(a), concerning implementation and equipment purchases by the Arkansas Department of Emergency Management, is amended to read as follows:

<< AR ST § 12-78-105 >>

(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 5910. Arkansas Code § 12-79-103(1), concerning definitions regarding the Arkansas Hazardous and Toxic Materials Emergency Notification Act, is repealed.

<< AR ST § 12-79-103 >>

(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 5911. The introductory language of Arkansas Code § 12-79-104(a), concerning the HAZMAT incident or accident reporting system, is amended to read as follows:

<< AR ST § 12-79-104 >>

(a) The Director of the ~~Arkansas Department~~ **Division** of Emergency Management shall:

SECTION 5912. Arkansas Code § 12-82-104(a)(1)(A), concerning the creation of the State Emergency Response Commission, is amended to read as follows:

<< AR ST § 12-82-104 >>

(A) The ~~directors~~ **executive head** of the Department of Health, the ~~Arkansas Department~~ **Division** of Environmental Quality, the ~~Department~~ **Division** of Arkansas State Police, the ~~Arkansas Department~~ **Division** of Emergency Management, the ~~Department~~ **Division** of Labor, the Arkansas Fire Training Academy, and the Arkansas Department of Transportation, and the Adjutant General, or their designated representatives;

SECTION 5913. Arkansas Code § 12-83-102(1) and (2), concerning the policy and purpose of the Emergency Volunteer Reserve Cadre, are amended to read as follows:

<< AR ST § 12-83-102 >>

(1) To establish within the ~~Arkansas Department~~ **Division** of Emergency Management an Emergency Volunteer Reserve Cadre of persons trained and experienced in certain functions related to disaster response and recovery operations;

(2) To provide authority to the Director of the ~~Arkansas Department~~ **Division** of Emergency Management to call the emergency volunteer reserve personnel into active service upon declaration of a state of disaster emergency by the Governor or the President of the United States or when, in the opinion of the director, a pending natural, technological, or national emergency may require the immediate services of the personnel;

SECTION 5914. Arkansas Code § 12-83-104(a)(1), concerning recruitment, service, deployment, and discharge by the Arkansas Department of Emergency Management, is amended to read as follows:

<< AR ST § 12-83-104 >>

(a)(1) The ~~Arkansas Department~~ **Division** of Emergency Management shall establish a system to recruit personnel with special skills or experience related to emergency response and recovery operations and provide initial familiarization training and periodic proficiency training as necessary for members of the Emergency Volunteer Reserve Cadre to ensure their readiness for immediate deployment for response and recovery activities.

SECTION 5915. Arkansas Code § 12-83-104(b), concerning recruitment, service, deployment, and discharge by the Arkansas Department of Emergency Management, is amended to read as follows:

<< AR ST § 12-83-104 >>

(b) The ~~department~~ **division** shall establish an administrative management system to recruit and maintain qualified personnel and establish a fiscal management system to ensure prompt and reasonable reimbursement of authorized expenses.

SECTION 5916. Arkansas Code § 12-83-104(e), concerning recruitment, service, deployment, and discharge by the Arkansas Department of Emergency Management, is amended to read as follows:

<< AR ST § 12-83-104 >>

(e) When called into active service by the Director of the ~~Arkansas Department~~ **Division** of Emergency Management, members of the cadre shall be under the operational and administrative management of the ~~department~~ **division** and such employees of that office who may be designated to supervise their duties.

SECTION 5917. Arkansas Code § 12-83-105(a)(1), concerning reimbursement of the Emergency Volunteer Reserve Cadre by the Arkansas Department of Emergency Management, is amended to read as follows:

<< AR ST § 12-83-105 >>

(a)(1) Any persons seeking enrollment into the Emergency Volunteer Reserve Cadre shall be notified that no salary, retainer, emoluments, or other monetary reimbursement shall be made for their services, except reimbursement for food, lodging, and travel utilizing a privately owned vehicle when so authorized by the Director of the ~~Arkansas Department~~ **Division** of Emergency Management.

SECTION 5918. The introductory language of Arkansas Code § 12-86-204, concerning the policies of the Arkansas Department of Emergency Management, is amended to read as follows:

<< AR ST § 12-86-204 >>

The Director of the ~~Arkansas Department~~ **Division** of Emergency Management shall coordinate efforts with other state agencies and appropriate organizations to:

SECTION 5919. Arkansas Code § 12-88-103(2)(C)(ii), concerning the definition of “declared state disaster or emergency” under the Business Rapid Response to State Disasters Facilitation Act, is amended to read as follows:

<< AR ST § 12-88-103 >>

(ii) That the Director of the ~~Arkansas Department~~ **Division** of Emergency Management designates as a disaster or emergency upon request of and notification by a registered business;

SECTION 5920. Arkansas Code § 14-14-1310(c)(3)(A), concerning the filling of vacancies in elective offices, is amended to read as follows:

<< AR ST § 14-14-1310 >>

(3)(A) The county judge and the sheriff shall file the executive order and the resolution with policy statement under subdivisions (c)(1) and (2) of this section with the county clerk, and a file-marked copy shall be provided to the Director of the ~~Arkansas Department~~ **Division** of Emergency Management no later than sixty (60) days from the beginning of the elected term of office.

SECTION 5921. Arkansas Code § 14-14-1314(a)(1)(A)(ii), concerning constable training and uniform requirements, is amended to read as follows:

<< AR ST § 14-14-1314 >>

(ii) Each year after completing the certification course required under subdivision (a)(1)(A)(i) of this section, he or she shall satisfactorily complete sixteen (16) hours of training ~~provided~~ **certified** by the Arkansas Commission on Law Enforcement Standards and Training.

SECTION 5922. The introductory language of Arkansas Code § 14-15-308(a), concerning training and instruction for medicolegal death investigators, coroners, and deputy coroners, is amended to read as follows:

<< AR ST § 14-15-308 >>

(a) ~~The Arkansas Commission on~~ **Division of** Law Enforcement Standards and Training, in coordination with the Department of Health, shall establish a training curriculum for medicolegal death investigators, coroners, and deputy coroners in Arkansas that consists of no less than sixteen (16) hours nor more than forty (40) hours of instruction, including without limitation courses on:

SECTION 5923. The introductory language of Arkansas Code § 14-15-308(b), concerning training and instruction for medicolegal death investigators, coroners, and deputy coroners, is amended to read as follows:

<< AR ST § 14-15-308 >>

(b) ~~The commission~~ **division** shall:

SECTION 5924. Arkansas Code § 14-15-308(b)(2)(B), concerning training and instruction for medicolegal death investigators, coroners, and deputy coroners, is amended to read as follows:

<< AR ST § 14-15-308 >>

(B) ~~The commission~~ **division** may receive funding for coroner training through grants-in-aid, donations, and the County Coroners Continuing Education Fund.

SECTION 5925. Arkansas Code § 15-45-211(b), concerning state parks as bird sanctuaries, is amended to read as follows:

<< AR ST § 15-45-211 >>

(b) It shall be unlawful for any person to trap, hunt, shoot, or attempt to shoot or molest in any manner any bird or wild fowl or to rob birds' nests or wild fowl's nests in these areas. However, if starlings or similar birds are found to be congregating in such numbers in a particular locality as in the opinion of the Department of Health constitutes a nuisance or a menace to health or property, then officials of the ~~Department of Health~~ **department**, after giving three (3) days' notice of the time and place of the meeting, shall meet with representatives of the Audubon Society, bird club, garden club, or humane society, or with as many of those clubs as are found to exist in the state, to discuss possible solutions to the problem. If, as a result of the meeting, no satisfactory alternative is found to abate the nuisance, then the birds may be destroyed in such numbers and in such manner as is deemed advisable by the ~~Department of Health~~ **department** under the supervision of the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5926. Arkansas Code § 16-90-706(a)(4), concerning the logistical support and powers of the Crime Victims Reparations Board, is amended to read as follows:

<< AR ST § 16-90-706 >>

(4)(A) The board shall be provided such office, support staff, and secretarial services as necessary by the ~~office of the Attorney General~~ **Department of Public Safety**.

(B) The support staff and secretarial services described in subdivision (a)(4)(A) of this section may also be assigned by the ~~Attorney General~~ **Secretary of the Department of Public Safety** to engage in additional legal work in other areas that do not involve crime victims reparations.

SECTION 5927. Arkansas Code § 16-90-707(a), concerning the annual report by the Crime Victims Reparations Board, is amended to read as follows:

<< AR ST § 16-90-707 >>

(a) The Crime Victims Reparations Board shall prepare and transmit annually a report of its activities to the ~~Governor~~ **Secretary of the Department of Public Safety**.

SECTION 5928. Arkansas Code § 16-90-715 is amended to read as follows:

<< AR ST § 16-90-715 >>

16-90-715. Action by state against convicted person for recovery of reparations.

(a)(1) Whenever any person is convicted of a crime and an order for the payment of reparations is or has been made under this subchapter for a personal injury or death resulting from the act or omission constituting the crime for which conviction was had, the ~~Attorney General~~ **Secretary of the Department of Public Safety** may institute a civil action against the convicted person for the recovery of all or any part of the reparations paid.

(2)(A) The suit shall be instituted in the circuit court having jurisdiction in the county in which the person resides or is found or in Pulaski County.

(B) The circuit court shall have jurisdiction to hear, determine, and render judgment in the action.

(3)(A) Any amount recovered under this subsection shall be credited to the Crime Victims Reparations Revolving Fund.

(B) If an amount greater than that paid pursuant to the order for payment of reparations is recovered and collected in the action, the Crime Victims Reparations Board shall pay the balance to the claimant.

(b) The board shall provide the ~~Attorney General~~ **secretary** with such information, data, and reports as he or she may require to institute actions in accordance with this section.

(c) The secretary may request the assistance of the Attorney General in instituting a civil action against the convicted person for the recovery of all or any part of the reparations paid.

SECTION 5929. Arkansas Code § 17-39-102(1), concerning the definition of “intern” under the Polygraph Examiners Licensing Act, is amended to read as follows:

<< AR ST § 17-39-102 >>

(1) “Intern” means a person who holds a valid intern polygraph examiner license issued by the Director of the ~~Department~~ **Division** of Arkansas State Police;

SECTION 5930. Arkansas Code § 17-39-103(b), concerning penalties regarding licensed polygraph examiner, is amended to read as follows:

<< AR ST § 17-39-103 >>

(b) It is unlawful for a person to conduct a polygraph examination in the State of Arkansas unless that person holds a valid license as a polygraph examiner or intern that is issued by the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5931. Arkansas Code § 17-39-104(a), concerning an injunction for the violation of the Polygraph Examiners Licensing Act, is amended to read as follows:

<< AR ST § 17-39-104 >>

(a) If a person violates this subchapter or subchapter 2, the Director of the ~~Department~~ **Division** of Arkansas State Police, through the Attorney General, may apply in any circuit court of competent jurisdiction for an order enjoining the violation or for an order enforcing compliance with this subchapter or subchapter 2.

SECTION 5932. Arkansas Code § 17-39-106(a), concerning the powers and duties of the Director of the Department of Arkansas State Police under the Polygraph Examiners Licensing Act, is amended to read as follows:

<< AR ST § 17-39-106 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police may perform the functions and duties enumerated in this subchapter or subchapter 2 with respect to the licensing of polygraph examiners and interns and perform all other acts incidental and necessary to the proper performance of the functions and duties as prescribed in this subchapter or subchapter 2.

SECTION 5933. Arkansas Code § 17-39-110 is amended to read as follows:

<< AR ST § 17-39-110 >>

17-39-110. Director of the ~~Department~~ **Division of Arkansas State Police — Designee.**

The Director of the ~~Department~~ **Division** of Arkansas State Police may designate a person on his or her staff to administer and carry out the provisions of this subchapter or subchapter 2.

SECTION 5934. Arkansas Code § 17-39-201 is amended to read as follows:

<< AR ST § 17-39-201 >>

17-39-201. License required.

It is unlawful for a person, including a city, county, or state employee, to administer polygraph examinations or hold himself or herself out as a polygraph examiner or intern without a polygraph examiner license or intern polygraph examiner license approved and issued by the Director of the Department **Division** of Arkansas State Police.

SECTION 5935. Arkansas Code § 17-39-202(4), concerning qualifications for a polygraph examiner license or an intern polygraph examiner license, is amended to read as follows:

<< AR ST § 17-39-202 >>

(4) Is a graduate of a polygraph examiners course approved by the Director of the Department **Division** of Arkansas State Police and has satisfactorily completed an internship of not less than six (6) months;

SECTION 5936. Arkansas Code § 17-39-203 is amended to read as follows:

<< AR ST § 17-39-203 >>

17-39-203. Initial polygraph examiner license or intern polygraph examiner license application.

(a) An application for an initial polygraph examiner license or intern polygraph examiner license shall be made to the Director of the Department **Division** of Arkansas State Police on forms prescribed by the director and shall be accompanied by the required fee as set out in § 17-39-207.

(b) The burden is on the applicant to provide sufficient information to bring himself or herself within the licensing standards and allow the director to determine if the applicant is qualified to hold a license under this subchapter and subchapter 1.

SECTION 5937. The introductory language of Arkansas Code § 17-39-204(a), concerning a polygraph examiner license, is amended to read as follows:

<< AR ST § 17-39-204 >>

(a) In addition to other application requirements, a polygraph examiner licensee or an intern polygraph examiner licensee who does not maintain a place of business in Arkansas shall file with the Director of the Department **Division** of Arkansas State Police an irrevocable consent that:

SECTION 5938. The introductory language of Arkansas Code § 17-39-205, concerning a polygraph examiner license in another state or territory, is amended to read as follows:

<< AR ST § 17-39-205 >>

An applicant who is a polygraph examiner licensed under the laws of another state or territory of the United States may be issued a two-year license by the Director of the Department **Division** of Arkansas State Police upon the production of satisfactory proof that the applicant:

SECTION 5939. Arkansas Code § 17-39-206(a)(1), concerning intern polygraph examiner license, is amended to read as follows:

<< AR ST § 17-39-206 >>

(a)(1) The Director of the ~~Department~~ **Division** of Arkansas State Police shall issue an intern polygraph examiner license to an applicant, provided that he or she submits a properly completed application, meets the licensing requirements, and pays the required fee under § 17-39-207.

SECTION 5940. Arkansas Code § 17-39-208 is amended to read as follows:

<< AR ST § 17-39-208 >>

17-39-208. Display of license and signature.

A polygraph examiner license, an intern polygraph examiner license, or the photo identification card issued by the Director of the ~~Department~~ **Division** of Arkansas State Police shall be prominently displayed at the place of business of the licensee or worn on his or her person.

SECTION 5941. Arkansas Code § 17-39-209 is amended to read as follows:

<< AR ST § 17-39-209 >>

17-39-209. Notification of address change.

Notice in writing shall be given to the Director of the ~~Department~~ **Division** of Arkansas State Police by the polygraph examiner licensee or the intern of any change of principal business location, telephone number, or email address within thirty (30) days of the time he or she changes location, telephone number, or email address.

SECTION 5942. Arkansas Code § 17-39-210(a), concerning expiration and renewal of polygraph examiner license, is amended to read as follows:

<< AR ST § 17-39-210 >>

(a) Each polygraph examiner license shall be issued for the term of two (2) years and, unless suspended or revoked, may be renewed with documentation prescribed by the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5943. The introductory language of Arkansas Code § 17-39-211, concerning grounds for denial, suspension, or revocation of intern polygraph examiner license, is amended to read as follows:

<< AR ST § 17-39-211 >>

The Director of the ~~Department~~ **Division** of Arkansas State Police may deny, suspend, or revoke a polygraph examiner license or an intern polygraph examiner license on any one (1) or more of the following grounds:

SECTION 5944. Arkansas Code § 17-39-212(a), concerning criminal background checks in regards to a polygraph examiner license, is amended to read as follows:

<< AR ST § 17-39-212 >>

(a) Each first-time applicant and applicant for license renewal shall be required to 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 Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police and the Federal Bureau of Investigation.

SECTION 5945. Arkansas Code § 17-39-212(c), concerning criminal background checks in regards to a polygraph examiner license, is amended to read as follows:

<< AR ST § 17-39-212 >>

(c) The applicant shall sign a release of information to the Director of the ~~Department~~ **Division** of Arkansas State Police and shall be responsible for the payment of any fee associated with the state and national criminal background check.

SECTION 5946. Arkansas Code § 17-39-213(a)(1)(A), concerning the proceedings regarding denial, suspension, or revocation of polygraph examiner license, is amended to read as follows:

<< AR ST § 17-39-213 >>

(a)(1)(A) When the Director of the ~~Department~~ **Division** of Arkansas State Police seeks to deny an application or suspend or revoke a license issued under this subchapter or subchapter 1, the director shall notify the applicant or licensee in person or by certified mail, return receipt requested, at the last address supplied to the director by the applicant or licensee.

SECTION 5947. Arkansas Code § 17-39-214(a), concerning an appeal of a denial, suspension, or revocation of a polygraph examiner license, is amended to read as follows:

<< AR ST § 17-39-214 >>

(a) An applicant or licensee dissatisfied with the action of the Director of the ~~Department~~ **Division** of Arkansas State Police in denying, suspending, or revoking a license may appeal the decision of the director under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 5948. Arkansas Code § 17-39-215 is amended to read as follows:

<< AR ST § 17-39-215 >>

17-39-215. Rules.

The Director of the ~~Department~~ **Division** of Arkansas State Police may promulgate rules to permit the efficient administration of this subchapter or subchapter 1.

SECTION 5949. Arkansas Code § 17-39-303 is amended to read as follows:

<< AR ST § 17-39-303 >>

17-39-303. Applicant burden of proof.

An applicant who seeks licensure under this subchapter as a certified voice stress analysis examiner has the burden to provide sufficient information to bring himself or herself within the licensing standards that would allow the Director of the ~~Department~~ **Division** of Arkansas State Police to determine if the applicant is qualified to hold the license.

SECTION 5950. The introductory language of Arkansas Code § 17-39-304, concerning application for license, proof, and fee for a certified voice stress analysis examiner, is amended to read as follows:

<< AR ST § 17-39-304 >>

A person who desires to be licensed as a certified voice stress analysis examiner and conduct voice stress analysis examinations within this state shall apply for licensure to the Director of the ~~Department~~ **Division** of Arkansas State Police and shall submit with the application documentation that the applicant:

SECTION 5951. Arkansas Code § 17-39-304(7), concerning application for license, proof, and fee for a certified voice stress analysis examiner, is amended to read as follows:

<< AR ST § 17-39-304 >>

(7) Has successfully completed a course of training that has been approved by the Director of the ~~Department~~ **Division** of Arkansas State Police offering a certification in the operation of the voice stress analysis machine and submits a copy of the certification with the application; and

SECTION 5952. Arkansas Code § 17-39-305(b)(1), concerning fees for a certified voice stress analysis examiner license, is amended to read as follows:

<< AR ST § 17-39-305 >>

(b)(1) All fees received by the Director of the ~~Department~~ **Division** of Arkansas State Police under this subchapter are nonrefundable and shall be deposited into the State Treasury as special revenues to the credit of the ~~Department~~ **Division** of Arkansas State Police Fund.

SECTION 5953. The introductory language of Arkansas Code § 17-39-306, concerning grounds for denying, suspending, or revoking a voice stress analysis examiner license, is amended to read as follows:

<< AR ST § 17-39-306 >>

The Director of the ~~Department~~ **Division** of Arkansas State Police may deny, suspend, or revoke a license of a certified voice stress analysis examiner on one (1) or more of the following grounds:

SECTION 5954. Arkansas Code § 17-39-307 is amended to read as follows:

<< AR ST § 17-39-307 >>

17-39-307. Rules.

The Director of the ~~Department~~ **Division** of Arkansas State Police may promulgate rules to permit the efficient administration of this subchapter.

SECTION 5955. Arkansas Code § 17-39-309(a), concerning a criminal background check for an applicant for renewal as a certified voice stress analysis examiner, is amended to read as follows:

<< AR ST § 17-39-309 >>

(a)(1) Each first-time applicant and each applicant for renewal of licensure as a certified voice stress analysis examiner shall apply to the ~~Department~~ **Division** of Arkansas State Police for a state and national criminal background check to be conducted by the ~~department~~ **division** and the Federal Bureau of Investigation.

(2) Criminal history records from the Arkansas Crime Information Center shall be available to the Director of the ~~Department~~ **Division** of Arkansas State Police for the review of an applicant's qualifications.

SECTION 5956. Arkansas Code § 17-39-309(d), concerning a criminal background check for an applicant for renewal as a certified voice stress analysis examiner, is amended to read as follows:

<< AR ST § 17-39-309 >>

(d) Upon completion of the state and national criminal background check, the ~~department~~ **division** shall forward to the director all releasable information obtained concerning the applicant.

SECTION 5957. Arkansas Code § 17-39-311(a), concerning an injunction for violation of the subchapter, is amended to read as follows:

<< AR ST § 17-39-311 >>

(a) If a person violates this subchapter, the Director of the ~~Department~~ **Division** of Arkansas State Police, through the Attorney General, may apply in the circuit court having jurisdiction for an order enjoining the violation or for an order enforcing compliance with this subchapter.

SECTION 5958. Arkansas Code § 17-39-313(a), concerning the administration and the powers and duties of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 17-39-313 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police may perform the functions and duties enumerated within this subchapter with respect to the licensing of certified voice stress analysis examiners and perform all other acts incidental and necessary to the proper performance of the functions and duties as prescribed in this subchapter.

SECTION 5959. Arkansas Code § 17-40-102(8)(B), concerning the definition of “assistant training administrator” under the Private Security Agency, Private Investigator, and School Security Licensing and Credentialing Act, is amended to read as follows:

<< AR ST § 17-40-102 >>

(B) The assistant training administrator shall certify to the Director of the ~~Department~~ **Division** of Arkansas State Police that the required training has been completed;

SECTION 5960. Arkansas Code § 17-40-102(14), concerning the definition of “credential” under the Private Security Agency, Private Investigator, and School Security Licensing and Credentialing Act, is amended to read as follows:

<< AR ST § 17-40-102 >>

(14) “Credential” means an authorization granted by the ~~Department~~ **Division** of Arkansas State Police to an individual to perform the duties of a private investigator, alarm systems monitor, alarm systems apprentice, alarm systems technician, alarms systems agent, private security officer, commissioned security officer, commissioned school

security officer, assistant training administrator, training administrator, training instructor, manager, or branch office manager;

SECTION 5961. Arkansas Code § 17-40-103(b), concerning persons exempt under the Private Security Agency, Private Investigator, and School Security Licensing and Credentialing Act, is amended to read as follows:

<< AR ST § 17-40-103 >>

(b)(1) If the security department of a private business or school hires or employs an individual in the capacity of a commissioned security officer or commissioned school security officer, the security department of the private business or school is not required to make application to the ~~Department~~ **Division** of Arkansas State Police for any license under this chapter.

(2) However, the private business or school is required to be recognized by the Director of the ~~Department~~ **Division** of Arkansas State Police as a private business or school for the purpose of employing the commissioned security officer or commissioned school security officer.

SECTION 5962. Arkansas Code § 17-40-105 is amended to read as follows:

<< AR ST § 17-40-105 >>

17-40-105. Notice of violation.

The Director of the ~~Department~~ **Division** of Arkansas State Police shall not deny, suspend, revoke, or fine any person required to be licensed, credentialed, or commissioned under this chapter unless the person has been notified of the alleged violation of this chapter within three hundred sixty-five (365) days after the occurrence of the alleged violation.

SECTION 5963. Arkansas Code § 17-40-106(a), concerning exclusive regulation and authority of a political subdivision, is amended to read as follows:

<< AR ST § 17-40-106 >>

(a) The regulation of investigation, security, and alarm systems companies is exclusive to the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5964. Arkansas Code § 17-40-204 is amended to read as follows:

<< AR ST § 17-40-204 >>

17-40-204. Administration.

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police shall perform such duties as may be prescribed by the director and shall have no financial, personal, or business interests in an entity licensed under this chapter.

(b) All legal processes and all documents required by law shall be served upon the director or his or her designee or filed within the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5965. The introductory language of Arkansas Code § 17-40-207(a), concerning the powers and duties of the Director of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 17-40-207 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police shall have the following powers and duties:

SECTION 5966. Arkansas Code § 17-40-208(a), concerning the establishment of minimum training requirements for personnel by the Director of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 17-40-208 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police shall establish minimum training requirements under this chapter for a private security officer, a commissioned security officer, and a commissioned school security officer.

SECTION 5967. Arkansas Code § 17-40-209(b) and (c), concerning the fees and disposition of funds for investigating and credentialing private investigators or licensing private security agencies, are amended to read as follows:

<< AR ST § 17-40-209 >>

(b) To assure that the intent is carried out, the expenditure for personal services and operating expenses associated with investigating and licensing, credentialing, or commissioning of individuals and agencies required to be licensed, credentialed, or commissioned under this chapter shall be limited in the aggregate to the amount deposited into the State Treasury to the credit of the ~~Department~~ **Division** of Arkansas State Police Fund from license, credential, and commission fees of the individuals and agencies.

(c) In order to provide sufficient revenues to carry out the duties and functions prescribed by this chapter, the Director of the ~~Department~~ **Division** of Arkansas State Police shall levy fees for licenses, credentials, and commissions as authorized by this chapter as determined by the director.

SECTION 5968. Arkansas Code § 17-40-209(e)(1), concerning the fees and disposition of funds for investigating and credentialing private investigators or licensing private security agencies, is amended to read as follows:

<< AR ST § 17-40-209 >>

(e)(1) All funds received by the director shall be deposited into the State Treasury as special revenues to the credit of the ~~Department~~ **Division** of Arkansas State Police Fund.

SECTION 5969. Arkansas Code § 17-40-301(g), concerning unlawful acts regarding private investigators, is amended to read as follows:

<< AR ST § 17-40-301 >>

(g) A person shall not program an automatic dialing device to call a law enforcement agency, fire department, emergency health service, or a state, city, or county agency without the prior approval of the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5970. The introductory language of Arkansas Code § 17-40-302(a), concerning fees for private investigators, is amended to read as follows:

<< AR ST § 17-40-302 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police may assess fees under this chapter as follows:

SECTION 5971. Arkansas Code § 17-40-306(a)(4), concerning license, credential, and applicant qualifications for a private investigator, is amended to read as follows:

<< AR ST § 17-40-306 >>

(4) Be in compliance with any other reasonable qualifications that the Director of the ~~Department~~ **Division** of Arkansas State Police may set by rule;

SECTION 5972. Arkansas Code § 17-40-306(d)(1)(B), concerning license, credential, and applicant qualifications for a private investigator, is amended to read as follows:

<< AR ST § 17-40-306 >>

(B) A Class A misdemeanor involving theft, sexual offenses, violence, an element of dishonesty, or a crime against a person as determined by the ~~Department of Arkansas State Police~~ **division** under subsection (e) of this section; or

SECTION 5973. Arkansas Code § 17-40-306(e), concerning license, credential, and applicant qualifications for a private investigator, is amended to read as follows:

<< AR ST § 17-40-306 >>

(e) The ~~department~~ **Department of Arkansas State Police or the Division of Arkansas State Police** shall promulgate rules within ninety (90) days of May 23, 2016, that determine the offenses under subdivision (d)(1)(B) of this section that constitute a Class A misdemeanor involving theft, sexual offenses, violence, an element of dishonesty, or a crime against a person.

SECTION 5974. The introductory language of Arkansas Code § 17-40-307(a), concerning a license, credential, application, and examination for a private investigator, is amended to read as follows:

<< AR ST § 17-40-307 >>

(a) An application for a license or credential under this chapter shall be in the form prescribed by the Director of the ~~Department~~ **Division** of Arkansas State Police and shall include:

SECTION 5975. Arkansas Code § 17-40-307(e)(1)(A), concerning a license, credential, application, and examination for a private investigator, is amended to read as follows:

<< AR ST § 17-40-307 >>

(e)(1)(A) Each first-time applicant and applicant for license or credential renewal shall apply to the ~~Department~~ **Division** of Arkansas State Police for a state and national criminal background check to be conducted by the ~~department~~ **division** and the Federal Bureau of Investigation.

SECTION 5976. Arkansas Code § 17-40-307(e)(4), concerning a license, credential, application, and examination for a private investigator, is amended to read as follows:

<< AR ST § 17-40-307 >>

(4) Upon completion of the state and national criminal background check, the ~~department~~ **division** shall forward to the director all releasable information obtained concerning the applicant.

SECTION 5977. Arkansas Code § 17-40-308(a), concerning a license or credential, and insurance prerequisite for a private investigator, is amended to read as follows:

<< AR ST § 17-40-308 >>

(a) A Class B, Class C, or Class G license shall not be issued to an applicant under this chapter unless the applicant files with the Director of the ~~Department~~ **Division** of Arkansas State Police proof of a policy of continuing public liability insurance in a sum not less than five hundred thousand dollars (\$500,000), conditioned to compensate any person for damages, including, but not limited to, bodily injury caused by wrongful acts of the principal or its servants, officers, agents, and employees in the conduct of any business licensed by this chapter.

SECTION 5978. Arkansas Code § 17-40-310 is amended to read as follows:

<< AR ST § 17-40-310 >>

17-40-310. License and credential — Form.

A license or credential when issued shall be in the form prescribed by the Director of the ~~Department~~ **Division** of Arkansas State Police and shall include the:

- (1) Name of the licensee or credential holder;
- (2) Name under which the licensee or credential holder is to operate; and
- (3) License or credential number and date of expiration.

SECTION 5979. Arkansas Code § 17-40-312 is amended to read as follows:

<< AR ST § 17-40-312 >>

17-40-312. License and credential — Termination.

The Director of the ~~Department~~ **Division** of Arkansas State Police shall prescribe by rule the procedure under which a license or credential issued under this chapter may be terminated by the licensee or credential holder.

SECTION 5980. Arkansas Code § 17-40-313(a)(2), concerning the expiration and renewal of a license, is amended to read as follows:

<< AR ST § 17-40-313 >>

(2) To renew an unexpired license or credential, the licensee or the credential holder shall apply for renewal on a form prescribed by the Director of the ~~Department~~ **Division** of Arkansas State Police and pay the renewal fee prescribed by this chapter.

SECTION 5981. Arkansas Code § 17-40-314(b)(2), concerning managers of the business of each licensee, is amended to read as follows:

<< AR ST § 17-40-314 >>

(2) Made a satisfactory showing to the Director of the ~~Department~~ **Division** of Arkansas State Police that the person has the qualifications prescribed by this chapter.

SECTION 5982. Arkansas Code § 17-40-315(a), concerning the duties of licensee or credential holders, is amended to read as follows:

<< AR ST § 17-40-315 >>

(a) Each licensee or credential holder shall maintain a record containing the information relative to his or her employees as may be prescribed by the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 5983. Arkansas Code § 17-40-316(a), concerning the change of address, telephone number, email address, name, or officers, or partners for licenses and credentials, is amended to read as follows:

<< AR ST § 17-40-316 >>

(a) A licensee or credential holder shall notify the Director of the ~~Department~~ **Division** of Arkansas State Police within fourteen (14) days after a change of the licensee's or credential holder's name, address, telephone number, email address, or officer or partner.

SECTION 5984. Arkansas Code § 17-40-317 is amended to read as follows:

<< AR ST § 17-40-317 >>

17-40-317. Licensees and credential holders — Windup period.

When the individual on the basis of whose qualifications a license or credential under this chapter has been obtained ceases to be connected with the business for which a license or credential under this chapter is required, the business may be carried on for a temporary period under such terms and conditions as the Director of the ~~Department~~ **Division** of Arkansas State Police shall provide by rule.

SECTION 5985. Arkansas Code § 17-40-318 is amended to read as follows:

<< AR ST § 17-40-318 >>

17-40-318. Training requirements for alarm systems company.

The Director of the ~~Department~~ **Division** of Arkansas State Police shall promulgate rules regarding the training requirements for alarm systems companies, alarm systems apprentices, alarm systems monitors, alarm systems technicians, and alarm systems agents.

SECTION 5986. Arkansas Code § 17-40-325(a), concerning a license or credential application, is amended to read as follows:

<< AR ST § 17-40-325 >>

(a) A person who is employed as a private investigator, a manager, a private security officer, an alarm systems technician, an alarm systems monitor, an alarm systems apprentice, or an alarm systems agent and who is required to be licensed or credentialed under this chapter shall submit a properly completed application for the license or credential to the Director of the Department **Division** of Arkansas State Police within fourteen (14) calendar days after the commencement of employment.

SECTION 5987. Arkansas Code § 17-40-329(a)(1), concerning issuance of a credential photo identification card, transfer and fee, and cancellation, is amended to read as follows:

<< AR ST § 17-40-329 >>

(a)(1) A credential photo identification card of a size, a design, and content as may be determined by the Director of the Department **Division** of Arkansas State Police shall be issued by the Department **Division** of Arkansas State Police under this chapter.

SECTION 5988. Arkansas Code § 17-40-330 is amended to read as follows:

<< AR ST § 17-40-330 >>

17-40-330. Authority to issue commission to carry a firearm.

The Director of the Department **Division** of Arkansas State Police may determine the qualifications for and issue an authorization to carry a firearm in the form of a commission to a qualified security officer or qualified school security officer that shall be held during the course of his or her employment.

SECTION 5989. Arkansas Code § 17-40-337(a)(4), concerning the commission and applicant qualifications for a commissioned security officer or a commissioned school security officer, is amended to read as follows:

<< AR ST § 17-40-337 >>

(4) Does not meet the qualifications for a commission as determined by the Director of the Department **Division** of Arkansas State Police;

SECTION 5990. Arkansas Code § 17-40-337(a)(6)(A), concerning the commission and applicant qualifications for a commissioned security officer or a commissioned school security officer, is amended to read as follows:

<< AR ST § 17-40-337 >>

(6)(A) Has not successfully completed a state and national criminal background check to be conducted by the Department **Division** of Arkansas State Police and the Federal Bureau of Investigation.

SECTION 5991. Arkansas Code § 17-40-339(a), concerning notice to law enforcement regarding commissioned security officers, is amended to read as follows:

<< AR ST § 17-40-339 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police shall notify the sheriff of the county and the chief of police of the city, if applicable, in which the applicant resides of the application for a commission to be a commissioned security officer or a commissioned school security officer.

SECTION 5992. Arkansas Code § 17-40-340 is amended to read as follows:

<< AR ST § 17-40-340 >>

17-40-340. Commission — Issuance of identification card.

Each commission as a commissioned security officer or a commissioned school security officer issued under this chapter shall be in the form of a commission photo identification card designed by the Director of the ~~Department~~ **Division** of Arkansas State Police that shall identify:

- (1) The commission holder;
- (2) The security department of a private business or school by whom the commission holder is employed;
- (3) A photograph of the credential holder; and
- (4) A credential number and date of expiration.

SECTION 5993. Arkansas Code § 17-40-342 is amended to read as follows:

<< AR ST § 17-40-342 >>

17-40-342. Commission — Termination.

If the holder of a commission terminates his or her employment with the licensee or the security department of a private business or school, he or she shall return the commission photo identification card to the Director of the ~~Department~~ **Division** of Arkansas State Police within seven (7) days of the date of termination of the employment.

SECTION 5994. Arkansas Code § 17-40-344 is amended to read as follows:

<< AR ST § 17-40-344 >>

17-40-344. Commission — Denial, suspension, or revocation.

The Director of the ~~Department~~ **Division** of Arkansas State Police may deny, suspend, or revoke a commission as a commissioned school security officer or a commission as a commissioned security officer if the applicant for a commission or the commission holder is indicted or arrested for one (1) of the following offenses or a comparable offense in another state:

- (1) A felony;
- (2) A Class A misdemeanor;
- (3) A crime involving an act of violence;
- (4) A crime involving the use of a firearm;
- (5) A crime involving the use of alcohol or drugs while in possession of a firearm;

(6) A crime that results in the person's disqualifying himself or herself from legally possessing a firearm under state or federal law; or

(7) A crime involving moral turpitude.

SECTION 5995. Arkansas Code § 17-40-349(a), concerning the suspension of a license, credential, or commission for nonpayment of child support, is amended to read as follows:

<< AR ST § 17-40-349 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police shall suspend a license, credential, or commission issued under this chapter if the ~~Department~~ **Division** of Arkansas State Police is notified by the Office of Child Support Enforcement that the licensee, credential holder, or commission holder has not paid his or her required child support.

SECTION 5996. Arkansas Code § 17-40-349(c)(2), concerning the suspension of a license, credential, or commission for nonpayment of child support, is amended to read as follows:

<< AR ST § 17-40-349 >>

(2) Notification from the office to the ~~department~~ **division**.

SECTION 5997. The introductory language of Arkansas Code § 17-40-350(a), concerning grounds for disciplinary action by the Director of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 17-40-350 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police may suspend or revoke a license, credential, or commission or issue a fine in an amount not to exceed one thousand dollars (\$1,000) for each violation of this chapter, or both, or the director may deny an application for a license, credential, or commission, or renewal thereof, on proof that the applicant, licensee, commission holder, or credential holder:

SECTION 5998. Arkansas Code § 17-40-351(a), concerning the procedure for denial of a license, credential, or commission, is amended to read as follows:

<< AR ST § 17-40-351 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police may deny the issuance of a license, credential, or commission under this chapter.

SECTION 5999. Arkansas Code § 17-40-352(a), concerning the record of denial, revocation, or suspension of a license, credential, or commission, is amended to read as follows:

<< AR ST § 17-40-352 >>

(a) In the event that the Director of the ~~Department~~ **Division** of Arkansas State Police denies the application or suspends or revokes a license, credential, or commission, or if a fine is imposed, the director's decision shall be in writing.

SECTION 6000. Arkansas Code § 17-40-353(1), concerning reciprocity for a private investigator licensed or credentialed by another state, is amended to read as follows:

<< AR ST § 17-40-353 >>

(1) The other state or territory grants similar reciprocity to credential holders of this state that coincides with the records on private investigator credential reciprocity maintained by the ~~Department~~ **Division** of Arkansas State Police;

SECTION 6001. Arkansas Code § 17-40-353(4), concerning reciprocity for a private investigator licensed or credentialed by another state, is amended to read as follows:

<< AR ST § 17-40-353 >>

(4) The applicant meets other reasonable qualifications as may be adopted by the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 6002. Arkansas Code § 17-40-354 is amended to read as follows:

<< AR ST § 17-40-354 >>

17-40-354. Fingerprint cards.

(a) The Identification Bureau of the ~~Department~~ **Division** of Arkansas State Police and the Federal Bureau of Investigation may retain the fingerprints collected for each individual who is fingerprinted under this chapter.

(b) The Director of the ~~Department~~ **Division** of Arkansas State Police may enroll a person issued a license, credential, or commission under this chapter in a program that electronically notifies law enforcement if the person has been arrested.

SECTION 6003. Arkansas Code § 19-6-404 is amended to read as follows:

<< AR ST § 19-6-404 >>

19-6-404. Department **Division of Arkansas State Police Fund.**

The ~~Department~~ **Division** of Arkansas State Police Fund shall consist of:

(1) Those special revenues as specified in § 19-6-301(1), (5), (7), (8), (38)-(40), (94), (150), (168), (175), (184)-(186), (190), (218)-(220), (222), (226), (227), (234), and (252);

(2) Moneys transferred or deposited from the State Administration of Justice Fund;

(3) Those general revenues as may be provided by law, there to be used for the maintenance, operation, and improvement of the ~~Department~~ **Division** of Arkansas State Police in carrying out the functions, powers, and duties as stated in § 12-8-106 or other duties imposed by law upon the department;

(4) Any revenues credited to the ~~Department~~ **Division** of Arkansas State Police Fund under the ~~Department~~ **Division** of Arkansas State Police Headquarters Facilities and Equipment Financing Act, § 12-8-601 et seq.; and

(5) Federal reimbursements received for eligible expenditures by the various programs of the ~~department~~ **division** made payable from the ~~Department~~ **Division** of Arkansas State Police Fund.

SECTION 6004. Arkansas Code § 19–11–605 is amended to read as follows:

<< AR ST § 19–11–605 >>

19–11–605. Authority to transfer excess military property to state and local agencies — Service charge.

The Law Enforcement Support Office of the Department of ~~Career Education~~ **Public Safety** may:

- (1) Cooperate with the federal government under 10 U.S.C. § 2576a in the transfer of excess military property to state and local law enforcement agencies:
 - (A) Whose primary function is the enforcement of applicable federal, state, and local laws; and
 - (B) Whose compensated law enforcement officers have powers of arrest and apprehension, including without limitation counter-drug and counter-terrorism activities;
- (2) Take any action necessary to the proper administration of the acquisition and the distribution of excess military properties to eligible claimants in this state, with distribution to be in accordance with the appropriate controlling federal statutes;
- (3) Establish service charges in an amount necessary to cover the expenses of the Department of ~~Career Education~~ **Public Safety** incurred in administering this section; and
- (4) Take action as necessary to collect service charges and, from any state moneys over which the department has control, withhold funds necessary to pay an amount owing by a state or local law enforcement agency.

SECTION 6005. Arkansas Code § 20–22–203 is amended to read as follows:

<< AR ST § 20–22–203 >>

20–22–203. Staff, offices, and supplies provided.

The ~~State Fire Marshal's Office~~ **Department of Public Safety** shall provide staff, office space and supplies, and other assistance as may be necessary for the day-to-day operation of the State Fire Prevention Commission and its activities.

SECTION 6006. Arkansas Code § 20–22–204 is amended to read as follows:

<< AR ST § 20–22–204 >>

20–22–204. Powers and duties.

(a) The State Fire Prevention Commission may:

- (1)(A) Obtain all necessary information from fire departments, police or sheriffs' departments, the ~~Department~~ **Division** of Arkansas State Police, other state agencies, clinics, insurance companies, or any other person with regard to fire, its causes, and its methods of prevention.
 - (B)(i) Notwithstanding any provision of law to the contrary, information furnished under this subsection shall be confidential and maintained as such if so requested by the persons providing the information.
 - (ii) Nothing in this subsection shall prohibit the use of confidential information to prepare statistics or other general data when it is presented so as to prevent identification of the source of information; and

(2) Receive and expend funds obtained from the federal government or other sources by means of contracts, grants, awards, gifts, and other devices in support of fire-prevention-related scientific and technical programs, studies, or other operations beneficial to the state.

(b) The ~~commission~~ **State Fire Prevention Commission** shall have the following duties and responsibilities:

- (1) Develop a plan for statewide fire prevention, including plans for urban and rural fire prevention;
- (2) Develop and maintain a fire prevention database upon which decisions concerning fire prevention and policy may intelligently be made;
- (3) Identify state needs relative to fire prevention, including specific needs of urban and rural areas;
- (4) Recommend actions to meet identified state needs relative to fire prevention;
- (5) Monitor and review the effectiveness of existing and proposed fire prevention programs;
- (6) Maintain an awareness of fire prevention research and development of importance to the state in order to promote information exchange and coordination of efforts;
- (7) Recommend legislative and executive action to encourage development of fire prevention resources and the efficient utilization of the resources;
- (8) Administer a public fire prevention awareness program to inform the public of the importance and methods of fire prevention;
- (9) Advise the General Assembly, the Governor, the State Fire Marshal, the Arkansas Forestry Commission, the Director of the Arkansas Fire Training Academy, the Director of the ~~Department~~ **Division** of Arkansas State Police, and the Insurance Commissioner on fire prevention and program matters of importance to each;
- (10) Advise on the delegation of responsibilities to state agencies responsible for fire prevention and policy and recommend resolution of conflicts between the various agencies on fire prevention matters;
- (11) Develop an annual report on the activities of the State Fire Prevention Commission and transmit the report to the ~~Governor~~ **Secretary of the Department of Public Safety** and the General Assembly on or before November 30 annually; and
- (12) Coordinate activities with the Federal Emergency Management Agency and any of the other federal or state agencies involved with fire prevention matters.

SECTION 6007. Arkansas Code § 20-22-701(5), concerning the definition of “license” under the laws governing fireworks, is amended to read as follows:

<< AR ST § 20-22-701 >>

(5) “License” means the written authority of the Director of the ~~Department~~ **Division** of Arkansas State Police issued under the authority of this subchapter to a distributor, jobber, wholesaler, manufacturer, importer, or retailer for a fee as provided in § 20-22-707;

SECTION 6008. Arkansas Code § 20–22–701(7), concerning the definition of “permit” under the laws governing fireworks, is amended to read as follows:

<< AR ST § 20–22–701 >>

(7) “Permit” means the written authority of the Director of the ~~Department~~ **Division** of Arkansas State Police issued for a public fireworks display under the authority of this subchapter;

SECTION 6009. Arkansas Code § 20–22–702(a), concerning exceptions for public displays of fireworks, is amended to read as follows:

<< AR ST § 20–22–702 >>

(a) Nothing in this subchapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the Director of the ~~Department~~ **Division** of Arkansas State Police. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the state shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulations of the **United States** Surface Transportation Board as Class B special fireworks and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs, and torpedoes.

SECTION 6010. Arkansas Code § 20–22–702(d)(1), concerning exceptions for public displays of fireworks, is amended to read as follows:

<< AR ST § 20–22–702 >>

(d)(1) The ~~Department~~ **Division** of Arkansas State Police may charge a fee not to exceed fifty dollars (\$50.00) for each permit issued under this section.

SECTION 6011. Arkansas Code § 20–22–702(d)(3), concerning exceptions for public displays of fireworks, is amended to read as follows:

<< AR ST § 20–22–702 >>

(3) All permit fees shall be remitted to the ~~department~~ **division** and shall be deposited into the State Treasury as special revenues to the credit of the ~~Department~~ **Division** of Arkansas State Police Fund.

SECTION 6012. Arkansas Code § 20–22–703(a)(1)(D), concerning exceptions regarding fireworks law, is amended to read as follows:

<< AR ST § 20–22–703 >>

(D) Transportation, sale, or use of permissible fireworks as defined in § 20–22–708 or special fireworks as defined in § 20–22–701 solely for agricultural or industrial purposes, provided that the purchaser first secures a written permit to purchase and use the fireworks for agricultural or industrial purposes from the Director of the ~~Department~~ **Division** of Arkansas State Police.

SECTION 6013. Arkansas Code § 20–22–707(a)(1)(A), concerning application and issuance of license for manufacturer, importer, distributor, jobber, retailer, or shooter of fireworks, is amended to read as follows:

<< AR ST § 20–22–707 >>

(a)(1)(A) To be licensed as a manufacturer, importer, distributor, jobber, retailer, retailer all-year, or shooter of fireworks, a first-time applicant shall submit to the Director of the ~~Department~~ **Division** of Arkansas State Police an application on a form provided by the director setting forth the information that the director determines necessary to ensure public health, safety, and welfare.

SECTION 6014. Arkansas Code § 20–22–707(a)(2)(A), concerning the application and issuance of a license for a manufacturer, importer, distributor, jobber, retailer, or shooter of fireworks, is amended to read as follows:

<< AR ST § 20–22–707 >>

(2)(A) A retailer may purchase a license from its vendor if the vendor is a licensed importer, distributor, or jobber or from the State Fire Marshal Enforcement Section of the ~~Department~~ **Division** of Arkansas State Police. The retailers' licenses shall be made available by the ~~Department~~ **Division** of Arkansas State Police to the vendor in books of twenty (20) licenses to a book.

SECTION 6015. Arkansas Code § 20–22–707(c), concerning application and issuance of license for manufacturer, importer, distributor, jobber, retailer, or shooter of fireworks, is amended to read as follows:

<< AR ST § 20–22–707 >>

(c) All funds collected under this subchapter by the director, including license fees and penalties, shall be deposited into the State Treasury to the credit of the ~~Department~~ **Division** of Arkansas State Police Fund.

SECTION 6016. Arkansas Code § 20–22–707(h), concerning the application and issuance of a license for a manufacturer, importer, distributor, jobber, retailer, or shooter of fireworks, is amended to read as follows:

<< AR ST § 20–22–707 >>

(h) The director may revoke or deny an application for any license or permit at any time for violating any provision of this subchapter or for falsifying any information provided to the ~~department~~ **division** as part of an application for a license or permit.

SECTION 6017. Arkansas Code § 20–22–710(e), concerning the location and display of fireworks, is amended to read as follows:

<< AR ST § 20–22–710 >>

(e) All licensees under this subchapter shall have a fire extinguisher of a type approved by the Director of the ~~Department~~ **Division** of Arkansas State Police in an area readily accessible to any point of storage or sale of fireworks. In lieu of such an extinguisher, retailers may maintain a common type of water hose, charged and connected to a water system, which is readily available to any area where fireworks are stored or sold.

SECTION 6018. Arkansas Code § 20-22-714(a), concerning the seizure of contraband fireworks, is amended to read as follows:

<< AR ST § 20-22-714 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police shall seize as contraband any fireworks other than Class C common fireworks defined in § 20-22-708 or special fireworks for public displays as provided in § 20-22-702 or for agricultural or industrial purposes as provided in § 20-22-703, which are sold, displayed, used, or possessed in violation of this subchapter.

SECTION 6019. Arkansas Code § 20-22-715(a), concerning a notice of violation and hearing, is amended to read as follows:

<< AR ST § 20-22-715 >>

(a) With reference to the administrative and civil penalties imposed by this subchapter, the Director of the ~~Department~~ **Division** of Arkansas State Police shall notify the person accused of a violation, setting a time and place for hearing to be held by the director or his or her designated agent.

SECTION 6020. Arkansas Code § 20-22-803(a)(3), concerning the creation and membership of the Arkansas Fire Protection Services Board, is amended to read as follows:

<< AR ST § 20-22-803 >>

(3) The Director of the Arkansas Fire Training Academy, the Director of the ~~Arkansas Department~~ **Division** of Emergency Management or his or her designee, and the State Fire Marshal or his or her designee shall be ex officio members.

SECTION 6021. Arkansas Code § 20-22-804(A)(5), concerning the powers and duties of the Arkansas Fire Protection Services Board, is amended to read as follows:

<< AR ST § 20-22-804 >>

(5) Serve in an advisory capacity to the Director of the ~~Arkansas Department~~ **Division** of Emergency Management with respect to the operation of fire services and the matters concerning certification and standards related to fire services in the state;

SECTION 6022. Arkansas Code § 20-22-805 is amended to read as follows:

<< AR ST § 20-22-805 >>

20-22-805. Office of Fire Protection Services — Creation.

(a) There is created the Office of Fire Protection Services which shall be under the supervision and direction of the Director of the ~~Arkansas Department~~ **Division** of Emergency Management.

(b) The Director of the Office of Fire Protection Services, who shall be employed by the Director of the ~~Arkansas Department~~ **Division** of Emergency Management, **in consultation with the Secretary of the Department of Public Safety,**

shall have the responsibility to carry out the administrative functions and directives of the Arkansas Fire Protection Services Board.

~~(c) The Director of the Office of Fire Protection Services may employ personnel as may be authorized by law to carry out the duties of the office.~~

SECTION 6023. Arkansas Code § 20–64–1003(d), concerning the functions, powers, and duties of the Arkansas Alcohol and Drug Abuse Coordinating Council, is amended to read as follows:

<< AR ST § 20–64–1003 >>

(d) The council shall develop training and education programs for criminal justice personnel in drug-related matters in conjunction with the ~~Arkansas Commission on~~ **Division of** Law Enforcement Standards and Training.

SECTION 6024. Arkansas Code § 22–3–304(a), concerning the enforcement of the subchapter by the Director of the Department of Arkansas State Police, is amended to read as follows:

<< AR ST § 22–3–304 >>

(a) In order that the provisions of this subchapter might be enforced, the Director of the ~~Department~~ **Division** of Arkansas State Police may assign one (1) state police officer or more to the State Capitol and its grounds, which may include assignments for sessions of the General Assembly, and the Secretary of State is directed to assign one (1) State Capitol Police officer or more. It shall be the responsibility of the Secretary of State to assure that at least one (1) certified law enforcement officer is on duty on the State Capitol grounds twenty-four (24) hours per day, seven (7) days per week.

SECTION 6025. Arkansas Code § 22–8–210 is amended to read as follows:

<< AR ST § 22–8–210 >>

22–8–210. Motor vehicle renovation.

(a) Funds deposited into the Motor Vehicle Acquisition Revolving Fund created by § 19–5–1002(a) and § 22–8–206(b), which may be made available for the purchase of motor vehicles for the ~~Department~~ **Division** of Arkansas State Police, may in addition be made available and used for expenses associated with the renovation of state police motor vehicles.

(b) If the Director of the ~~Department~~ **Division** of Arkansas State Police determines the cost associated with renovating or repairing state police motor vehicles is economically beneficial, he or she shall contract with a qualified vendor and, when invoiced, shall submit said invoice to the Chief Fiscal Officer of the State, who shall direct payment from moneys set aside in the fund for the ~~department~~ **division**.

SECTION 6026. Arkansas Code § 24–6–201(6) and (7), concerning the definition of “department” and “director” under the laws governing the State Police Retirement System, are repealed.

<< AR ST § 24–6–201 >>

(6) “Department” means the ~~Department of~~ Arkansas State Police;

(7) “Director” means the ~~Director of the~~ Department of Arkansas State Police;

SECTION 6027. Arkansas Code § 24–6–201(8), concerning the definition of “final average compensation” under the laws governing the State Police Retirement System, is amended to read as follows:

<< AR ST § 24–6–201 >>

(8)(A) “Final average compensation” for contributory service means the average of the annual salaries paid a member for the three (3) years of credited service rendered by the member immediately preceding his or her last termination of employment with the department **Division of Arkansas State Police**, but the final average compensation shall not exceed that of the highest permanent rank.

(B)(i) “Final average compensation” for Tier I noncontributory service means the average of the highest annual compensation paid a member during any period of sixty (60) calendar months of credited service with the ~~Department of Arkansas State Police~~ **division**.

(ii) Should a member have less than sixty (60) calendar months of credited service, “final average compensation” means the monthly average paid to the member during his or her total years of credited service;

SECTION 6028. Arkansas Code § 24–6–201(16), concerning the definition of “retirement” under the laws governing the State Police Retirement System, is amended to read as follows:

<< AR ST § 24–6–201 >>

(16) “Retirement” means a member's withdrawal from the employ of the department **division** with a pension payable from funds of the system;

SECTION 6029. Arkansas Code § 24–6–201(18) and (19), concerning the definitions of “service” and “state police officer” under the laws governing the State Police Retirement System, are amended to read as follows:

<< AR ST § 24–6–201 >>

(18) “Service” means service rendered to the department **division** by a state police officer and shall include previous service, if any, rendered as an Arkansas state ranger, **state police officer with the Department of Arkansas State Police**, or **state police officer with the Division of Arkansas State Police**;

(19)(A) “State police officer” means any employee of the ~~Department of Arkansas State Police~~ **division or its predecessor entities** who holds the rank of state trooper or higher rank, and it shall include the ~~director~~ **Director of the Division of Arkansas State Police**.

(B) The term “state police officer” shall not include any civilian employee of the department **division**, nor shall it include any person who is temporarily employed as a state trooper for an emergency.

(C) In any case of doubt as to who is a “state police officer”, the board shall decide the question;

SECTION 6030. Arkansas Code § 24–6–207(a), concerning membership in the State Police Retirement System, is amended to read as follows:

<< AR ST § 24–6–207 >>

(a) The Director of the ~~Department~~ **Division** of Arkansas State Police and all other state police officers ~~who were state police officers March 19, 1951, and who continued as state police officers on or after March 19, 1951,~~ shall become members of the State Police Retirement System.

SECTION 6031. Arkansas Code § 24-6-207(c), concerning membership in the State Police Retirement System, is amended to read as follows:

<< AR ST § 24-6-207 >>

(c) None of the other employees of the ~~Department~~ **Division** of Arkansas State Police shall be eligible to membership in the system, and the conferring of rank upon any such employee shall not, in itself, constitute eligibility to membership in the system.

SECTION 6032. Arkansas Code § 24-6-207, concerning membership in the State Police Retirement System, is amended to add an additional subsection to read as follows:

<< AR ST § 24-6-207 >>

(d) Any state police officer, upon appointment as Secretary of the Department of Public Safety, shall be eligible to continue his or her membership in the State Police Retirement System.

SECTION 6033. Arkansas Code § 24-6-405(a), concerning eligibility for benefits and disability retirement from the State Police Retirement System, is amended to read as follows:

<< AR ST § 24-6-405 >>

(a)(1)(A) Upon application filed with the Board of Trustees of the State Police Retirement System by a member or by the Director of the ~~Department~~ **Division** of Arkansas State Police on behalf of a member, a member who is in the employ of the ~~Department~~ **Division** of Arkansas State Police, who has five (5) or more years of actual service, and who becomes totally and permanently incapacitated for duty in the employ of the ~~department~~ **division** by reason of personal injury or disease may be retired by the Board of Trustees of the State Police Retirement System, but only after a medical examination of the member.

(B) This examination shall be made by or under the direction of a board of medical professionals as defined in the rules of the Board of Trustees of the State Police Retirement System, using the active duty criteria supplied by the ~~department~~ **division** in determining the extent of the disability.

(2) The five (5) years of service requirement contained in this subsection shall not apply to a member whom the Board of Trustees of the State Police Retirement System finds to be in receipt of workers' compensation for his or her disability arising solely and exclusively out of and in the course of his or her employment with the ~~department~~ **division**.

SECTION 6034. Arkansas Code § 24-6-405(c)(4), concerning eligibility for benefits and disability retirement from the State Police Retirement System, is amended to read as follows:

<< AR ST § 24-6-405 >>

(4) If, upon the medical examination of the retirant, the medical professionals designated by the Board of Trustees of the State Police Retirement System report to the Board of Trustees of the State Police Retirement System that the retirant is physically capable of performing the duties of the rank held by him or her at the time of his or her

retirement, the retirant shall be returned to the employ of the department **division**, and his or her disability pension shall be terminated.

SECTION 6035. Arkansas Code § 24–6–405(d), concerning eligibility for benefits and disability retirement from the State Police Retirement System, is amended to read as follows:

<< AR ST § 24–6–405 >>

(d)(1) Upon a disability retirant's return to the employ of the department **division** as provided in subsection (c) of this section, his or her service at the time of his or her retirement shall be restored to his or her credit.

(2) He or she shall be given service credit for the period he or she was receiving a disability pension if within that period he or she was in receipt of workers' compensation on account of his or her department **division** employment.

SECTION 6036. Arkansas Code § 25–17–304(a), concerning the appointment and removal of institutional law enforcement officers, is amended to read as follows:

<< AR ST § 25–17–304 >>

(a) The executive heads of each of the educational, charitable, correctional, penal, and other institutions owned and operated by the State of Arkansas, including the executive head **Secretary** of the Department of Parks, **Heritage**, and Tourism and the executive head of the Arkansas Forestry Commission, are authorized to designate and appoint one (1) or more of the employees of the institutions and department, respectively, as an institutional law enforcement officer or officers for the institution or at a state park, or any separate portion of the institution or park, who shall exercise law enforcement officer authority under the laws of this state.

SECTION 6037. Arkansas Code § 25–17–304(e)(3)(D), concerning the appointment and removal of institutional law enforcement officers, is amended to read as follows:

<< AR ST § 25–17–304 >>

(D) The ~~Arkansas Commission on~~ **Division of Law Enforcement Standards and Training** shall be notified of any change in an institutional law enforcement officer's status.

SECTION 6038. Arkansas Code § 27–16–508(b), concerning the Office of Driver Services fee for reinstatement, is amended to read as follows:

<< AR ST § 27–16–508 >>

(b) The revenues derived from this fee shall be deposited into the State Treasury as special revenues to the credit of the ~~Department~~ **Division** of Arkansas State Police Fund.

SECTION 6039. Arkansas Code § 27–16–808(b)(2), concerning reinstatement charge for a suspended license, is amended to read as follows:

<< AR ST § 27–16–808 >>

(2) Seventy-five percent (75%) to the State Treasury as special revenues to the credit of the ~~Department~~ **Division** of Arkansas State Police Fund.

SECTION 6040. Arkansas Code § 27-23-108(a)(1)(B), concerning commercial driver license qualification standards, is amended to read as follows:

<< AR ST § 27-23-108 >>

(B)(i) The tests shall be prescribed by the ~~Department~~ **Division** of Arkansas State Police and shall be conducted by the ~~Department of Arkansas State Police~~ **division** or by a third-party tester designated by the ~~Department of Arkansas State Police~~ **division** under regulations promulgated as provided in this section.

(ii) The knowledge test administered by the ~~Department of Arkansas State Police~~ **division** shall be given in electronic format.

(iii) The result of a test administered by the ~~Department of Arkansas State Police~~ **division** or by a third-party tester shall be transmitted electronically to the Department of Finance and Administration.

SECTION 6041. Arkansas Code § 27-23-108(a)(2), concerning commercial driver license qualification standards, is amended to read as follows:

<< AR ST § 27-23-108 >>

(2) The ~~Department of Arkansas State Police~~ **division** shall, by rules, authorize a person, including an agency of this state, an employer, a private driver training facility, another private institution, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section pursuant to the requirements of 49 C.F.R. § 383.75, as in effect on January 1, 2013. These third-party testing regulations shall provide at a minimum that:

(A) A skills test given by a third-party tester is the same as a test that would otherwise be given by the ~~Department of Arkansas State Police~~ **division** using:

(i) The same version of the skills test;

(ii) The same written instructions for test applicants; and

(iii) The same scoring sheets as those prescribed in 49 C.F.R. part 383, subparts G and H, as in effect on January 1, 2013;

(B) A third-party skills test examiner shall meet the requirements of 49 C.F.R. § 384.228, as in effect on January 1, 2013;

(C) The third-party tester shall enter into an agreement with the ~~Department of Arkansas State Police~~ **division** that demonstrates compliance with all of the requirements of 49 C.F.R. § 383.75, as in effect on January 1, 2013;

(D) The ~~Department of Arkansas State Police~~ **division** shall designate and provide to any third-party testers the evidence to be used to indicate to the Department of Finance and Administration that an applicant had successfully passed the skills test;

(E) The eligibility to become a third-party tester shall be open to qualified persons under the regulations at least two (2) times annually, provided there are sufficient numbers of qualified applicants to conduct classes;

(F) The third-party tester shall pay a third-party testing administration fee as may be determined by the Director of the ~~Department~~ **Division** of Arkansas State Police to recover the costs of administering the testing program and examination distribution expenses;

(G) The ~~Department of Arkansas State Police~~ **division** shall issue each third-party skills test examiner a skills testing certificate upon successful completion of a formal skills test examiner training course pursuant to 49 C.F.R. § 384.228, as in effect on January 1, 2013; and

(H) The ~~Department of Arkansas State Police~~ **division** shall audit and monitor third-party testers and third-party skills test examiners pursuant to the requirements of 49 C.F.R. § 384.229, as in effect on January 1, 2013.

SECTION 6042. Arkansas Code § 27-23-108(a)(3)(B)(i), concerning commercial driver license qualification standards, is amended to read as follows:

<< AR ST § 27-23-108 >>

(B)(i) A new third-party tester applicant shall certify to the ~~Department of Arkansas State Police~~ **division** the number of tests it anticipates conducting in its first year of testing and shall obtain and maintain a bond based upon the number of tests it anticipates conducting that corresponds to the amount provided in subdivision (a)(3)(A) of this section for tests in the preceding calendar year.

SECTION 6043. Arkansas Code § 27-23-108(a)(3)(D), concerning commercial driver license qualification standards, is amended to read as follows:

<< AR ST § 27-23-108 >>

(D) In the event that a third-party tester or one of its examiners is involved in fraudulent activities related to conducting skills testing that require a driver to be retested, the third party tester's bond is liable to the ~~Department of Arkansas State Police~~ **division** for payment of its actual costs to retest the driver.

SECTION 6044. Arkansas Code § 27-23-108(b)(1), concerning commercial driver license qualification standards, is amended to read as follows:

<< AR ST § 27-23-108 >>

(1) The ~~Department of Arkansas State Police~~ **division** may waive the skills test specified in this section for a commercial driver license applicant who meets the requirements of 49 C.F.R., § 383.77, as in effect on January 1, 2013.

SECTION 6045. The introductory language of Arkansas Code § 27-23-108(b)(2)(B), concerning commercial driver license qualification standards, is amended to read as follows:

<< AR ST § 27-23-108 >>

(B) The ~~Department of Arkansas State Police~~ **division** shall waive the skills test specified in this section for any commercial driver license applicant who:

SECTION 6046. The introductory language of Arkansas Code § 27-23-108(b)(2)(C), concerning commercial driver license qualification standards, is amended to read as follows:

<< AR ST § 27-23-108 >>

(C) The ~~Department of Arkansas State Police~~ **division** shall:

SECTION 6047. Arkansas Code § 27-23-108(e)(1)(A), concerning commercial driver license qualification standards, is amended to read as follows:

<< AR ST § 27-23-108 >>

(A) Completes a human trafficking prevention course administered by the ~~Department of Arkansas State Police~~ **division** or by a third party approved by the ~~Department of Arkansas State Police~~ **division** to present a human trafficking prevention course under regulations promulgated as provided in this section; or

SECTION 6048. Arkansas Code § 27-37-701(2), concerning the definition of “seat belt” under the motor vehicle laws, is amended to read as follows:

<< AR ST § 27-37-701 >>

(2) “Seat belt” means any passenger restraint system as defined by the ~~Department~~ **Division** of Arkansas State Police, except that, until such time as the ~~department~~ **division** has promulgated regulations defining “seat belt”, the term means any passenger restraint system which meets the federal requirements contained in 49 C.F.R. § 571.208.

SECTION 6049. Arkansas Code § 27-53-210(a) and (b), concerning the fees for copies made by the Department of Arkansas State Police, are amended to read as follows:

<< AR ST § 27-53-210 >>

(a) Except as provided under § 27-53-202(b)(2)(B), photostatic or written copies of reports and records may be obtained from the Director of the ~~Department~~ **Division** of Arkansas State Police, or from his or her duly designated assistants, by any person who makes a written request for them to the ~~department~~ **Division of Arkansas State Police**.

(b)(1) In order to partially reimburse the ~~Department of Arkansas State Police~~ **division** for the cost of making photostatic or written copies of motor vehicle accident reports and copies of records of traffic violations, there shall be charged a fee of ten dollars (\$10.00) for each copy of a basic accident report and a fee of one dollar fifty cents (\$1.50) per page for each copy of a supplemental report.

(2) All funds collected under this subsection shall immediately be paid over by the ~~Department of Arkansas State Police~~ **division** to the Treasurer of State and shall be credited by him or her as a special revenue to the ~~Department~~ **Division** of Arkansas State Police Fund.

SECTION 6050. Arkansas Code § 27-67-222(a), concerning the state police officer highway dedication program, is amended to read as follows:

<< AR ST § 27-67-222 >>

(a)(1) “State police officer” means any employee of the ~~Department~~ **Division** of Arkansas State Police who holds the rank of state trooper or higher rank, including the Director of the ~~Department~~ **Division** of Arkansas State Police.

(2) The term “state police officer” does not include any:

(A) Civilian employee of the ~~department~~ **division**; or

(B) Person who is temporarily employed as a state trooper during an emergency.

SECTION 6051. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 15 — Department of Transformation and Shared Services

<< AR ST § 25-43-1501 >>

25-43-1501. Department of Transformation and Shared Services.

There is created the Department of Transformation and Shared Services as a cabinet-level department.

<< AR ST § 25-43-1502 >>

25-43-1502. State entities transferred to Department of Transformation and Shared Services.

(a) The administrative functions of the following state entities are transferred to the Department of Transformation and Shared Services by a cabinet-level department transfer:

(1) The Arkansas Geographic Information Systems Board, created under § 15-21-503;

(2) The Arkansas Geographic Information Systems Office, created under § 15-21-502;

(3) The Building Authority Division, created under § 22-2-104;

(4) The Data and Transparency Panel, created under § 25-4-127;

(5) The Department of Information Systems, created under § 25-4-104, now to be known as the Division of Information Systems;

(6) The Employee Benefits Division, created under § 25-43-1505;

(7) The Office of Personnel Management, created under § 25-43-1504;

(8) The Office of State Procurement, created under § 19-11-215;

(9) The State and Public School Life and Health Insurance Board, created under 21-5-402; and

(10) The State Technology Council, created under § 25-33-101.

(b) Unless otherwise provided by law, a cabinet-level department transfer under subsection (a) of this section includes all state entities under a state entity transferred to the Department of Transformation and Shared Services under subsection

(a) of this section, including without limitation a division, office, program, or other unit of a state entity transferred to the Department of Transformation and Shared Services under subsection (a) of this section.

(c) Unless otherwise provided by law, a state entity whose administrative functions have been transferred to the Department of Transformation and Shared Services under subsection (a) of this section shall otherwise continue to exercise the duties of the state entity under the administration of the cabinet-level Department of Transformation and Shared Services in the same manner as before the creation of the cabinet-level department.

<< AR ST § 25-43-1503 >>

25-43-1503. Secretary of the Department of Transformation and Shared Services.

(a) The executive head of the Department of Transformation and Shared Services shall be the Secretary of the Department of Transformation and Shared Services.

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

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

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

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

(1) Hire department personnel;

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

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

<< AR ST § 25-43-1504 >>

25-43-1504. Office of Personnel Management — State Personnel Administrator.

(a) There is created within the Department of Transformation and Shared Services the Office of Personnel Management.

(b)(1)(A) The Director of the Office of Personnel Management shall be known as the “State Personnel Administrator”.

(B) The State Personnel Administrator shall be employed by the Secretary of the Department of Transformation and Shared Services with the advice and consent of the Governor.

(2) The Office of Personnel Management shall be under the overall direction, control, and supervision of the Secretary of the Department of Transformation and Shared Services.

<< AR ST § 25-43-1505 >>

25-43-1505. Employee Benefits Division.

There is created within the Department of Transformation and Shared Services the Employee Benefits Division.

SECTION 6052. Arkansas Code § 1-4-133(b), concerning the display of the national motto, is amended to read as follows:

<< AR ST § 1-4-133 >>

(b) The copies or posters authorized under this section shall either be donated or shall be purchased solely with funds made available through voluntary contributions to the local school boards or the Building Authority Division of the ~~Department of Finance and Administration~~ .

SECTION 6053. Arkansas Code § 6-20-1407(e), concerning the approval of school facility building plans, is amended to read as follows:

<< AR ST § 6-20-1407 >>

(e)(1) For new public school facilities, a copy of final construction documents shall be submitted to the Design Review Section of the Building Authority Division of the ~~Department of Finance and Administration~~ for review in regard to compliance with the Arkansas-adopted Americans with Disabilities Act Accessibility Guidelines.

(2) All review comments received from the Building Authority Division of the ~~Department of Finance and Administration~~ shall be in writing.

(3) Corrected construction documents shall be received and approved by the Building Authority Division of the ~~Department of Finance and Administration~~ .

(4) No new public school facilities project shall be released for bidding or construction until the requirements of this subsection are met.

SECTION 6054. Arkansas Code § 6-21-109(a), concerning the rules governing public works projects, is amended to read as follows:

<< AR ST § 6-21-109 >>

(a) The Commission for Arkansas Public School Academic Facilities and Transportation, after consulting with the Building Authority Division of the ~~Department of Finance and Administration~~ and any other entities, shall establish rules applicable to public educational entities for all public works projects when the public educational entity uses its own employees or acts as a general contractor.

SECTION 6055. Arkansas Code § 6-62-302(b), concerning authorization for university building construction and purchases, is amended to read as follows:

<< AR ST § 6-62-302 >>

(b) No board of trustees of such public institutions of higher education shall be required to obtain any prior review, consultation, approval, assistance, or advice from the Building Authority Division of the ~~Department of Finance and Administration~~ for projects undertaken based on the foregoing powers and authority. Provided, however, nothing in this subsection shall prevent any board of trustees of such public institutions of higher education from entering into an agreement with the division to provide review, consultation, approval, assistance, or advice for such projects. However, public institutions of higher education exempt from project review, consultation, approval, assistance, or advice of the

division shall remain subject to other laws governing public works, including without limitation § 19–4–1401 et seq. and § 22–9–101 et seq.

SECTION 6056. Arkansas Code § 6–62–606(b), concerning an exemption from compliance with review by the Building Authority Division of the Department of Finance and Administration, is amended to read as follows:

<< AR ST § 6–62–606 >>

(b) In proceeding under this subchapter, it shall not be necessary for the board to comply with any other laws relating to the procurement, disposal, or leasing of property, including without limitation laws concerning the appointment of appraisers in connection therewith, laws restricting the obligation of funds for construction, and laws dealing with the improvement of historic structures, except that the transfer and the lease agreement shall be subject to the review and approval of the Building Authority Division of the Department of Finance and Administration .

SECTION 6057. Arkansas Code § 6–62–611(a)(2), concerning agreements for the transfer and lease of property, instruments of conveyance, and title insurance, is amended to read as follows:

<< AR ST § 6–62–611 >>

(2) The agreement may provide that the owner will make improvements or additions to the property subject to the inspection and approval of all improvements and additions to the property by the Building Authority Division of the Department of Finance and Administration .

SECTION 6058. Arkansas Code § 6–63–602(a), concerning the administration of the higher education catastrophic leave bank program, is amended to read as follows:

<< AR ST § 6–63–602 >>

(a)(1) The Department of Finance and Administration **Transformation and Shared Services** shall have administrative responsibility for developing, implementing, and maintaining a catastrophic leave bank program for nonfaculty benefits-eligible, full-time employees of the state institutions of higher education.

(2) Each state institution of higher education may participate in the catastrophic leave bank authorized by this section and administered by the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration , or the institution may establish a catastrophic leave bank for its employees.

SECTION 6059. Arkansas Code § 6–63–602(f), concerning the administration of the higher education catastrophic leave bank program, is amended to read as follows:

<< AR ST § 6–63–602 >>

(f) The Director of the Department of Finance and Administration **Secretary of the Department of Transformation and Shared Services** or his or her designee shall promulgate necessary rules and regulations as deemed necessary to carry out the provisions of this section.

SECTION 6060. Arkansas Code § 7–9–124(b), concerning the creation of the Voter Registration Signature Imaging System Fund, is amended to read as follows:

<< AR ST § 7-9-124 >>

(b) The ~~Department~~ **Division** of Information Systems shall cooperate with and assist the Secretary of State in determining the computer equipment and software needed in the office of the Secretary of State for the voter registration signature imaging system.

SECTION 6061. Arkansas Code § 10-3-601 is amended to read as follows:

<< AR ST § 10-3-601 >>

10-3-601. Intent.

It is the intent of this subchapter to establish procedures whereby the types of contracts to be let for legislative printing or duplicating requirements may be determined after study and review of the printing or duplicating needs of the General Assembly. Adequate specifications and safeguards may be established for such contracts in order that the State Procurement Director of the ~~Office of State Procurement of the Department of Finance and Administration~~ might be advised thereof in the letting of contracts for legislative printing or duplicating requirements.

SECTION 6062. Arkansas Code § 10-3-1704(c), concerning the members and duties of the Joint Committee on Advanced Communications and Information Technology, is amended to read as follows:

<< AR ST § 10-3-1704 >>

(c) The Joint Committee on Advanced Communications and Information Technology shall exercise appropriate legislative oversight of the operations of the ~~Department~~ **Division** of Information Systems.

SECTION 6063. Arkansas Code § 10-3-1705 is amended to read as follows:

<< AR ST § 10-3-1705 >>

10-3-1705. Duties of joint standing committee.

Bills pertaining to the ~~Department~~ **Division** of Information Systems, advanced communications and information technology, telemedicine, distance learning, or public information access shall be referred to the Joint Committee on Advanced Communications and Information Technology or the Committee on Advanced Communications and Information Technology, as appropriate.

SECTION 6064. Arkansas Code § 10-3-1707(c), concerning interim committee meetings, expenses, and staff of the Joint Committee on Advanced Communications and Information Technology, is amended to read as follows:

<< AR ST § 10-3-1707 >>

(c) All other appropriate state agencies, including, but not limited to, the ~~Department~~ **Division** of Information Systems, the Arkansas Economic Development Commission, and public colleges and universities in the State of Arkansas, shall be available to assist the Joint Committee on Advanced Communications and Information Technology on advanced communications and information technology matters as may be requested by the Joint Committee on Advanced Communications and Information Technology.

SECTION 6065. Arkansas Code § 10–4–424(c), concerning the audit of information systems operations, is amended to read as follows:

<< AR ST § 10–4–424 >>

(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 6066. Arkansas Code § 13–4–203(b)(5), concerning the Records Retention Committee, is amended to read as follows:

<< AR ST § 13–4–203 >>

(5) The ~~Department~~ **Division** of Information Systems;

SECTION 6067. Arkansas Code § 15–21–205(a), concerning the duties and appointment of the State Surveyor, is amended to read as follows:

<< AR ST § 15–21–205 >>

(a) The Arkansas Geographic Information Systems Board shall employ, *in consultation with 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 6068. Arkansas Code § 15–21–205(b)(2), concerning the appointment of the State Surveyor, is amended to read as follows:

<< AR ST § 15–21–205 >>

(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 6069. The introductory language of Arkansas Code § 15–21–206, concerning the powers and duties of the State Surveyor, is amended to read as follows:

<< AR ST § 15–21–206 >>

The State Surveyor, acting under the supervision and direction of the Arkansas Geographic Information Systems Office **and the Secretary of the Department of Transformation and Shared Services**, shall have the following authority and responsibility:

SECTION 6070. Arkansas Code § 15–21–206(13), concerning the powers and duties of the State Surveyor, is amended to read as follows:

<< AR ST § 15–21–206 >>

(13) To employ, **in consultation with the Secretary of the Department of Transformation and Shared Services**, such surveyors and other professional and nonprofessional assistants and to take other reasonable action as deemed necessary to carry out the purposes of this subchapter.

SECTION 6071. Arkansas Code § 15–21–207 is amended to read as follows:

<< AR ST § 15–21–207 >>

15–21–207. Surveyors generally.

(a) Every employee of the Division of Land Surveys of the Arkansas Geographic Information Systems Office, **Department of Transformation and Shared Services**, who performs any work required by law to be done by a registered professional surveyor shall be a registered surveyor.

(b) Neither the State Surveyor nor any employee of the **department performing work on behalf of the** division shall engage in private land surveying or consultation while so employed by the ~~division~~ **department**.

(c) The State Surveyor and employees of the **department performing work on behalf of the** division shall cooperate with and assist county surveyors in performing their duties as prescribed by law and shall cooperate with and assist other surveyors in locating or establishing section corner markers and other land description markers and monuments.

(d) In performing the duties and responsibilities provided for in this subchapter, the State Surveyor and employees of ~~the office of State Surveyor~~ **of the Division of Land Surveys of the Arkansas Geographic Information Systems Office and the Department of Transformation and Shared Services** may solicit the advice and assistance of the county surveyor in each county and other surveyors in the county.

(e) If there are no registered professional surveyors in a particular county, the **department on behalf of the** division may employ qualified registered professional surveyors from other areas of the state to assist the division in carrying out its duties and responsibilities under this subchapter.

SECTION 6072. Arkansas Code § 15–21–208 is amended to read as follows:

<< AR ST § 15–21–208 >>

15–21–208. Right to enter private property.

(a) The State Surveyor or any employee of the **Department of Transformation and Shared Services or of the** Division of Land Surveys of the Arkansas Geographic Information Systems Office shall have the right to enter upon private property for the purpose of making surveys or searching for, locating, relocating, or remonumenting land monuments, levelling stations, or section corners.

(b) Employees of the **department or** division shall be immune from arrest for trespass in performing their duties as prescribed in this subchapter **and under the direction of a registered professional land surveyor** but shall always, when practical, announce and identify themselves and their intentions before entering upon private property.

SECTION 6073. Arkansas Code § 15–21–502(10), concerning the definition of “State Chief Technology Officer” under the laws governing the Arkansas Geographic Information Systems Board, is amended to read as follows:

<< AR ST § 15-21-502 >>

(10) “State Chief Technology Officer” means the Director of the ~~Department~~ **Division** of Information Systems;

SECTION 6074. Arkansas Code § 15-21-503(c)(2)(C), concerning the creation and powers of the Arkansas Geographic Information Systems Board, is amended to read as follows:

<< AR ST § 15-21-503 >>

(C) The State Geographic Information Officer shall report ~~directly to the Governor~~ **to the Secretary of the Department of Transformation and Shared Services.**

SECTION 6075. Arkansas Code § 15-21-503(d)(1) and (2), concerning the creation and powers of the Arkansas Geographic Information Systems Board, are amended to read as follows:

<< AR ST § 15-21-503 >>

(d)(1) The State Geographic Information Officer shall administer daily operations of the Arkansas Geographic Information Systems Office with direction from the board **and the secretary.**

(2) This may include liaison between the board, the Governor, **the secretary**, the State Chief Technology Officer, and public or private sector entities involved in spatial data and land records modernization, project management in the preparation of the strategic planning documents related to spatial data and land records modernization, developing policy and procedures for land records modernization, and developing policy and procedures for the activities of the board.

SECTION 6076. Arkansas Code § 15-55-213 is amended to read as follows:

<< AR ST § 15-55-213 >>

15-55-213. Access to information.

The Arkansas Geological Survey and the ~~Department~~ **Division** of Information Systems shall grant access to and provide information determined by the ~~Office of the~~ Commissioner of State Lands to be necessary to successfully accomplish its mission.

SECTION 6077. The introductory language of Arkansas Code § 17-105-121(a), concerning the uniform classification plan and physician assistant employment, is amended to read as follows:

<< AR ST § 17-105-121 >>

(a) The Office of Personnel Management ~~of the Division of Management Services of the Department of Finance and Administration~~ shall establish and maintain a position classification of physician assistant. The initial position classification shall mirror the Veterans Health Administration Directive 10-95-020 of March 3, 1995, and the United States Department of Veterans Affairs regulation as embodied in:

SECTION 6078. Arkansas Code § 18-44-503(b), concerning public buildings and improvements, is amended to read as follows:

<< AR ST § 18-44-503 >>

(b) All persons, firms, associations, and corporations who have valid claims against the bond may bring an action on the bond against the corporate surety, provided that no action shall be brought on the bond after twelve (12) months from the date on which the Building Authority Division of the ~~Department of Finance and Administration~~ or institutions exempt from construction review and approval by the division approve final payment on the state contract, nor shall any action be brought outside the State of Arkansas.

SECTION 6079. Arkansas Code § 19-1-205 is amended to read as follows:

<< AR ST § 19-1-205 >>

19-1-205. Office.

The Building Authority Division of the ~~Department of Finance and Administration~~ shall assign to the Department of Finance and Administration and divisions of the department suitable office space with the necessary conveniences for the transaction of the department's business and the safekeeping of the department's records.

SECTION 6080. Arkansas Code § 19-4-522(c)(1), concerning the maintenance and general operations under the state accounting and budgetary procedures, is amended to read as follows:

<< AR ST § 19-4-522 >>

(1) In the event the amount of any of the budget classifications of maintenance and general operation in an agency's appropriation act are found by the administrative head of the agency to be inadequate, then the agency head may request, upon forms provided for such purpose by the Chief Fiscal Officer of the State, a modification of the amounts of the budget classification. In that event, he or she shall set out on the forms the particular classifications for which he or she is requesting an increase or decrease, the amounts thereof, and his or her reasons therefor. In no event shall the total amount of the budget exceed either the amount of the appropriation or the amount of the funds available, nor shall any transfer be made from the capital outlay or data processing subclassification unless specific authority for such transfers is provided by law, except for transfers from capital outlay to data processing when determined by the ~~Department~~ **Division** of Information Systems that data processing services for a state agency can be performed on a more cost-efficient basis by the ~~Department~~ **Division** of Information Systems than through the purchase of data processing equipment by that state agency;

SECTION 6081. Arkansas Code § 19-4-522(d)(5), concerning the maintenance and general operations under the state accounting and budgetary procedures, is amended to read as follows:

<< AR ST § 19-4-522 >>

(5) Data Processing. This subclassification includes purchase of data processing services from the ~~Department~~ **Division** of Information Systems, or others, and other expenses that are not necessarily classified elsewhere in this section by virtue of the appropriation based upon budgets presented for consideration.

SECTION 6082. Arkansas Code § 19-4-702(e)(2)(A), concerning the time limits for presenting vouchers, is amended to read as follows:

<< AR ST § 19-4-702 >>

(2)(A) All state agencies may carry over from the first fiscal year of any biennium to the second fiscal year of the biennium any unexpended maintenance and operation appropriations and funds, as defined under § 19-4-522, to the extent necessary to pay for renovation and minor and major repairs under the jurisdiction of the Building Authority Division of the ~~Department of Finance and Administration~~ which were under contract at least ninety (90) days prior to the end of the first fiscal year but which will not be completed until after the end of the first fiscal year and are substantiated by written contracts.

SECTION 6083. Arkansas Code § 19-4-1405(c)(2)(A), concerning bidding procedures, is amended to read as follows:

<< AR ST § 19-4-1405 >>

(2)(A) The bonds shall be both for the completion of the construction free of all liens and encumbrances, in an amount fixed by the Building Authority Division of the ~~Department of Finance and Administration~~, and for the protection of the state agency and its members against all liability for injury to persons or damage to, or loss of, property arising, or claimed to have arisen, in the course of the work project, within limits fixed by the division.

SECTION 6084. Arkansas Code § 19-4-1411(a)(1)(B), concerning the processing of payments, is amended to read as follows:

<< AR ST § 19-4-1411 >>

(B) A state agency or institution of higher education exempt from review and approval by the Building Authority Division of the ~~Department of Finance and Administration~~ — five (5) working days, including preparation of a voucher and submission for payment; and

SECTION 6085. Arkansas Code § 19-4-1413(a)(2)(B), concerning projects constructed with private funds, is amended to read as follows:

<< AR ST § 19-4-1413 >>

(B) The Chief Fiscal Officer of the State may forward a copy of this statement to the Building Authority Division of the ~~Department of Finance and Administration~~, **the Secretary of the Department of Transformation and Shared Services**, and the Governor for information; and

SECTION 6086. Arkansas Code § 19-4-1415(b)(1), concerning projects exceeding five million dollars (\$5,000,000), is amended to read as follows:

<< AR ST § 19-4-1415 >>

(b)(1) No contract for projects between the state agency and the construction manager, general contractor, architect, or engineer shall be entered into without first obtaining approval of the Building Authority Division of the Department of Finance and Administration and review by the Legislative Council.

SECTION 6087. Arkansas Code § 19-4-1602(c), concerning payroll deductions, is amended to read as follows:

<< AR ST § 19-4-1602 >>

(c) Deductions authorized by this section shall be made in compliance with rules, regulations, and procedures established by the Chief Fiscal Officer of the State **Secretary of the Department of Transformation and Shared Services**.

SECTION 6088. Arkansas Code § 19-4-1603 is amended to read as follows:

<< AR ST § 19-4-1603 >>

19-4-1603. Procedures for position control.

(a) The Chief Fiscal Officer of the State **Secretary of the Department of Transformation and Shared Services** shall establish procedures for exercising position control applicable to those state agencies subject to the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq.

(b) Exercising position control shall be interpreted as follows:

(1) The Chief Fiscal Officer of the State **Secretary of the Department of Transformation and Shared Services** shall assign a position control number to each line-item position authorized for the applicable agencies;

(2) The Chief Fiscal Officer of the State **Secretary of the Department of Transformation and Shared Services** shall establish reporting procedures so that agencies shall provide complete reports to the Department of Finance and Administration on the use of all authorized positions; and

(3) The Chief Fiscal Officer of the State **Secretary of the Department of Transformation and Shared Services** may restrict an agency's use of authorized positions only after finding that the agency is in financial difficulty and after invoking the fiscal controls provided in § 19-4-701 et seq. and § 19-4-1201 et seq.

SECTION 6089. The introductory language of Arkansas Code § 19-4-1604(a), concerning salary from two agencies, is amended to read as follows:

<< AR ST § 19-4-1604 >>

(a) Except as provided in subsections (b) and (c) of this section, no person drawing a salary or other compensation from one state agency shall be paid salary or compensation, other than actual expenses, from any other state agency except upon written certification to and approval by the Chief Fiscal Officer of the State **Secretary of the Department of Transformation and Shared Services** and by the head of each state agency, stating that:

SECTION 6090. The introductory language of Arkansas Code § 19-4-1604(c), concerning salary from two agencies, is amended to read as follows:

<< AR ST § 19-4-1604 >>

(c) A person drawing a salary or other compensation from a state agency or institution of higher education shall not be paid a salary or compensation from another institution of higher education except upon the written certification to and approval by the Director of the ~~Department~~ **Division** of Higher Education that the:

SECTION 6091. Arkansas Code § 19-4-1606(a), concerning the review of payroll required under the Uniform Classification and Compensation Act, is amended to read as follows:

<< AR ST § 19-4-1606 >>

(a) The Department of ~~Finance and Administration~~ **Transformation and Shared Services** shall review the payroll of state agencies covered by the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., with respect to the salaries of all employees of affected state agencies. This review shall determine the correctness of each payroll with respect to each position to assure compliance with the compensation plan and to assure that no position is being paid, during any payroll period, an amount greater than authorized in the compensation plan or the amount authorized for the position in the appropriation act applicable to the agency.

SECTION 6092. Arkansas Code § 19-4-1607(a)(3), concerning monthly, biweekly, weekly, and hourly salaries, is amended to read as follows:

<< AR ST § 19-4-1607 >>

(3) For complying with federal requirements, upon approval of the **Secretary of the Department of Transformation and Shared Services in consultation with the** Chief Fiscal Officer of the State, the maximum annual salaries may be converted to hourly rates of pay for positions established on the basis of twelve (12) months or less if authorized by law.

SECTION 6093. Arkansas Code § 19-4-1610(c)(2)(B), concerning the prohibition of retroactive pay, is amended to read as follows:

<< AR ST § 19-4-1610 >>

(B) Upon the consent of the **Secretary of the Department of Transformation and Shared Services in consultation with the** Chief Fiscal Officer of the State.

SECTION 6094. Arkansas Code § 19-4-1612(b)(2)(A), concerning overtime pay, is amended to read as follows:

<< AR ST § 19-4-1612 >>

(2)(A) The ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services** will specify those specific employees or groups of employees other than employees of the Arkansas Department of Transportation eligible to receive overtime compensation, the circumstances under which overtime pay is to be allowed, and other matters the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services** finds appropriate and necessary to comply with the federal Fair Labor Standards Act of 1938 as regards the payment of overtime compensation.

SECTION 6095. Arkansas Code § 19-4-1612(c), concerning overtime pay, is amended to read as follows:

<< AR ST § 19-4-1612 >>

(c) The rules authorized by this section shall not go into effect until the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services**, or the Arkansas Department of Transportation as to its employees, has sought the advice of the Legislative Council.

SECTION 6096. Arkansas Code § 19-5-1046(a)(2), concerning the Building Authority Division Maintenance Fund, is amended to read as follows:

<< AR ST § 19-5-1046 >>

(2) The fund shall be used for the maintenance, operation, and improvement of lands, buildings, and facilities that may be acquired by the Building Authority Division ~~of the Department of Finance and Administration~~ .

SECTION 6097. Arkansas Code § 19-5-1052(b), concerning the Justice Building Fund, is amended to read as follows:

<< AR ST § 19-5-1052 >>

(b) The Justice Building Fund shall consist of all moneys transferred or deposited from the State Administration of Justice Fund, there to be used exclusively by the Building Authority Division ~~of the Department of Finance and Administration~~ for the maintenance of the Arkansas Justice Building.

SECTION 6098. Arkansas Code § 19-5-1055 is amended to read as follows:

<< AR ST § 19-5-1055 >>

19-5-1055. ~~Department~~ Division of Information Systems Revolving Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "~~Department~~ **Division** of Information Systems Revolving Fund".

(b)(1) The fund shall consist of nonrevenue receipts derived from services provided to various agencies of the federal, state, city, and county governments, and any other moneys which may be provided by law.

(2) The fund shall be used for the maintenance, operation, and improvement of the ~~Department~~ **Division** of Information Systems as set out in the Arkansas Information Systems Act of 1997, § 25-4-101 et seq.

SECTION 6099. Arkansas Code § 19-5-1056(b)(1), concerning the Information Technology Reserve Fund, is amended to read as follows:

<< AR ST § 19-5-1056 >>

(b)(1) The Information Technology Reserve Fund shall consist of those funds transferred from the ~~Department~~ **Division** of Information Systems Revolving Fund in an amount up to the authorized reserve for equipment acquisition as certified by the Chief Fiscal Officer of the State within thirty (30) days following the closing of each fiscal year, any loans which may be received from the Budget Stabilization Trust Fund, and any other moneys which may be provided by law.

SECTION 6100. Arkansas Code § 19-5-1087(a), concerning the Justice Building Construction Fund, is amended to read as follows:

<< AR ST § 19-5-1087 >>

(a) There is created in accordance with §§ 19-4-801 — 19-4-803, 19-4-805, 19-4-806, and the Revenue Classification Law, § 19-6-101 et seq., a cash fund entitled the “Justice Building Construction Fund”, which shall be maintained in such depository bank or banks as may, from time to time, be designated by the Building Authority Division of the Department of Finance and Administration .

SECTION 6101. Arkansas Code § 19-5-1206(b)(2), concerning the Building Authority Division Real Estate Fund, is amended to read as follows:

<< AR ST § 19-5-1206 >>

(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 6102. 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:

<< AR ST § 19-11-203 >>

(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 6103. Arkansas Code § 19-11-203(27)(B), concerning the definition of “services” under the state procurement laws, is amended to read as follows:

<< AR ST § 19-11-203 >>

(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 6104. Arkansas Code § 19-11-215 is amended to read as follows:

<< AR ST § 19-11-215 >>

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**.

(2) The rules and regulations authorized in this subchapter shall be approved by the ~~Director of the Department of Finance and Administration~~ **secretary** prior to the filing of the rules and regulations in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 6105. Arkansas Code § 19-11-216(a)(2), concerning the State Procurement Director, is amended to read as follows:

<< AR ST § 19-11-216 >>

(2) The State Procurement Director shall be appointed by the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services**.

SECTION 6106. Arkansas Code § 19-11-217(b)(1), concerning the powers and duties of the State Procurement Director, is amended to read as follows:

<< AR ST § 19-11-217 >>

(b)(1) Except as otherwise provided in this subchapter and upon the approval of the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services**, the State Procurement Director shall have the authority and responsibility to promulgate ~~regulations~~ **rules** consistent with this subchapter.

SECTION 6107. Arkansas Code § 19-11-218 is amended to read as follows:

<< AR ST § 19-11-218 >>

19-11-218. Assistants and designees.

Subject to the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., **and the approval of the Secretary of the Department of Transformation and Shared Services**, the State Procurement Director may:

- (1) Employ and supervise such assistants and other persons as may be necessary;
- (2) Fix their compensation as provided by law; and
- (3) Delegate authority to such designees or to any state agency as the director may deem appropriate, within the limitations of state law and the state procurement regulations.

SECTION 6108. Arkansas Code § 19-11-220(a)(37), concerning agency procurement officials, is amended to read as follows:

<< AR ST § 19-11-220 >>

(37) ~~Department~~ **Division** of Higher Education.

SECTION 6109. Arkansas Code § 19-11-220(b)(2), concerning agency procurement officials, is amended to read as follows:

<< AR ST § 19-11-220 >>

(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 6110. Arkansas Code § 19-11-226(b)(3), concerning recommendations to the State Procurement Director, is amended to read as follows:

<< AR ST § 19-11-226 >>

(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 6111. Arkansas Code § 19-11-227 is amended to read as follows:

<< AR ST § 19-11-227 >>

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 6112. Arkansas Code § 19-11-235(b)(2), concerning the responsibility of bidders and offerors, is amended to read as follows:

<< AR ST § 19-11-235 >>

(2) This section is not intended to prohibit the office from disclosing such information to the Governor, the Attorney General, or the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** when any of those officers deems it necessary.

SECTION 6113. Arkansas Code § 19-11-602(a), concerning a purchase for schools and school districts, is amended to read as follows:

<< AR ST § 19-11-602 >>

(a) The ~~Arkansas Department~~ **Division** of Emergency Management is authorized to purchase surplus commodities, materials, supplies, equipment, and other property from the federal government through any of its agencies for tax-supported schools and for school districts in Arkansas. The ~~department~~ **division** is authorized to cooperate with the State Procurement Director in the purchase of school items.

SECTION 6114. Arkansas Code § 19-11-801(a)(1), concerning the use of procurement procedures for legal, architectural, engineering, construction management, and land surveying professional consultant services, is amended to read as follows:

<< AR ST § 19-11-801 >>

(1) State agencies not exempt from review and approval of the Building Authority Division of the ~~Department of Finance and Administration~~ shall follow procedures established by the division for the procurement of architectural, engineering, land surveying, and construction management services; and

SECTION 6115. Arkansas Code § 19-11-902(b)(6)(B), concerning the definition of “services” under the procurement rules for work center products and services, is amended to read as follows:

<< AR ST § 19-11-902 >>

(B) “Services” shall not include employment agreements, collective bargaining agreements, or architectural or engineering contracts requiring approval of the Building Authority Division of the ~~Department of Finance and Administration~~ ;

SECTION 6116. Arkansas Code § 19-11-1001(3)(D)(i), concerning the definition of “design professional contract” under professional and consultant services contracts, is amended to read as follows:

<< AR ST § 19-11-1001 >>

(D)(i) A state agency shall follow applicable Building Authority Division of the ~~Department of Finance and Administration~~ guidelines, procedures, and rules for the selection and award of contracts.

SECTION 6117. Arkansas Code § 19-11-1011(a)(1), concerning the review requirement for professional consultant services contracts, is amended to read as follows:

<< AR ST § 19-11-1011 >>

(a)(1) Every contract for professional consultant services covered by this subchapter that is executed using the professional and consultant service contract form approved by the State Procurement Director shall be filed with the Office of State Procurement of the ~~Department of Finance and Administration~~ .

SECTION 6118. Arkansas Code § 20-8-404 is amended to read as follows:

<< AR ST § 20-8-404 >>

20-8-404. Rules.

The ~~Department~~ **Division** of Information Systems, Department of Finance and Administration, Department of Health, Department of Human Services, State Insurance Department, and all other appropriate departments, agencies, subcontractors, and officers shall promulgate rules to implement this subchapter.

SECTION 6119. Arkansas Code § 21-1-103(d), concerning the state employee service recognition program, is amended to read as follows:

<< AR ST § 21-1-103 >>

(d) ~~The Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services** shall promulgate reasonable rules and regulations as he or she deems necessary in carrying out the provisions of this service recognition program.

SECTION 6120. Arkansas Code § 21-1-105(e), concerning state employee benefit programs, is amended to read as follows:

<< AR ST § 21-1-105 >>

(e) ~~The Office of Personnel Management and the Employee Benefits Division of the Department of Finance and Administration~~ shall assist each state agency, board, commission, and institution of higher education in developing an employee benefits program and employee benefits statement.

SECTION 6121. Arkansas Code § 21-1-604(f)(3), concerning civil liability for violations of the Arkansas Whistle-Blower Act, is amended to read as follows:

<< AR ST § 21-1-604 >>

(3) ~~The Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** shall adopt voluntary mediation application and request forms.

SECTION 6122. Arkansas Code § 21-1-704(c)(2)(A)(ii), concerning nonbinding mediation, is amended to read as follows:

<< AR ST § 21-1-704 >>

(ii) The mediator shall report within ten (10) business days of the nonbinding mediation his or her suggested resolution to the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services**.

SECTION 6123. Arkansas Code § 21-4-214(a)(1), concerning the catastrophic leave program, is amended to read as follows:

<< AR ST § 21-4-214 >>

(a)(1) ~~The Department of Finance and Administration~~ **Department of Transformation and Shared Services** shall have administrative responsibility for developing, implementing, and maintaining the statewide catastrophic leave bank program.

SECTION 6124. The introductory language of Arkansas Code § 21-4-214(g), concerning the catastrophic leave program, is amended to read as follows:

<< AR ST § 21-4-214 >>

(g) The ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services**, or the director's **secretary's** designee, shall establish policies and procedures:

SECTION 6125. Arkansas Code § 21-5-211(c)(1)(A), concerning salary adjustments and the implementation procedure for grade changes, is amended to read as follows:

<< AR ST § 21-5-211 >>

(A) The Chief Fiscal Officer of the State **and the Secretary of the Department of Transformation and Shared Services** ~~determines~~ **determine** that sufficient general revenues become available; and

SECTION 6126. Arkansas Code § 21-5-211(d), concerning salary adjustments and the implementation procedure for grade changes, is amended to read as follows:

<< AR ST § 21-5-211 >>

(d)(1) If the Chief Fiscal Officer of the State **and the Secretary of the Department of Transformation and Shared Services** ~~determines~~ **determine** that general revenue funds are insufficient to implement the salary increases authorized in this subchapter or by any other law that affects salary increases for state employees, the Chief Fiscal Officer of the State **and the Secretary of the Department of Transformation and Shared Services** upon approval by the Governor may reduce the percentage of all authorized salary increases for all state employees covered by this subchapter without regard to whether or not the employees are compensated from general or special revenues, federal funds, or trust funds.

(2) However, if sufficient general revenues should then become available at any time during the year to provide the maximum additional salary increases for all state employees without regard to the source of revenues, salary increases for state employees provided for in this subchapter or by any other law may be fully implemented by the Chief Fiscal Officer of the State **and the Secretary of the Department of Transformation and Shared Services**.

(3) Any salary adjustments made by the Chief Fiscal Officer of the State **and the Secretary of the Department of Transformation and Shared Services** in accordance with this subsection shall be reported to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 6127. Arkansas Code § 21-5-214(c)(1) and (2), concerning new appointments and other compensation plan provisions, are amended to read as follows:

<< AR ST § 21-5-214 >>

(c)(1) A state agency may request a special rate of pay for a specific classification or position due to prevailing market rates of pay up to the midpoint pay level of the appropriate grade of a classification on the appropriate pay table for the assigned grade with the written approval of the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services**.

(2) A state agency may request a special rate of pay for a specific classification or position due to prevailing market rates of pay up to the maximum pay level for the assigned grade only with the approval of the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services** after review by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 6128. Arkansas Code § 21-5-214(f)(1)(A), concerning new appointments and other compensation plan provisions, is amended to read as follows:

<< AR ST § 21-5-214 >>

(f)(1)(A) An employee **who is** promoted ~~on or after July 1, 2017,~~ shall receive a salary increase up to ten percent (10%).

SECTION 6129. Arkansas Code § 21-5-214(i), concerning new appointments and other compensation plan provisions, is amended to read as follows:

<< AR ST § 21-5-214 >>

(i) An employee ~~who is~~ **whose salary would be above the maximum salary level of the new grade after being** placed in a lower-graded position on the same pay table because the original position has expired due to lack of funding, program changes, **reorganization**, or withdrawal of federal grant funds may continue to be paid at the same rate as the employee was being paid in the higher-graded position upon approval of the Office of Personnel Management after seeking the review of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 6130. Arkansas Code § 21-5-214(n), concerning new appointments and other compensation plan provisions, is amended to read as follows:

<< AR ST § 21-5-214 >>

(n) The ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services** or the Governor may suspend discretionary special salary actions.

SECTION 6131. Arkansas Code § 21-5-220(c)(3)(B) and (C), concerning shift differentials, are amended to read as follows:

<< AR ST § 21-5-220 >>

(B) The shift schedule, job classifications, positions, and the percentage of shift differential for which the job titles will be eligible shall be submitted to the Office of Personnel Management for approval by the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services**.

(C) Subsequent changes to the shift schedule, job classifications, positions, and shift differential percentages shall be submitted to the Office of Personnel Management and receive prior approval by the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services**.

SECTION 6132. Arkansas Code § 21-5-221(c)(2)(B) and (C), concerning compensation differentials, are amended to read as follows:

<< AR ST § 21-5-221 >>

(B) The positions shall be certified by the state agency director as having been assigned to a work environment that poses an increased risk of personal injury and shall be submitted as part of the plan for payment of hazardous duty differential to the Office of Personnel Management for approval by the **Secretary of the Department of Transformation and Shared Services in consultation with the** Chief Fiscal Officer of the State after review and approval of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(C) Subsequent changes to the facility or unit, location, and eligible positions or classifications within the facility or unit on file with the Office of Personnel Management shall receive prior approval by the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services** after review and approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 6133. Arkansas Code § 21-5-221(d), concerning compensation differentials, is amended to read as follows:

<< AR ST § 21-5-221 >>

(d) It is the intent of this subsection that hazardous duty compensation shall be at the discretion of the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services** and the director of the state agency and shall not be implemented using funds specifically set aside for other programs within the state agency.

SECTION 6134. Arkansas Code § 21-5-222(a)(1)(D) and (E), concerning salary administration grids, are amended to read as follows:

<< AR ST § 21-5-222 >>

(D) Salary administration grid has been submitted to the Office of Personnel Management for approval by the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services** up to the midpoint pay level; and

(E)(i) Salary administration grid has been submitted to the Office of Personnel Management for approval by the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services** above the midpoint pay level.

(ii) The ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services** shall not approve the salary administration grid in this subdivision (a)(1)(E) until the salary administration grid has been reviewed by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 6135. The introductory language of Arkansas Code § 21-5-223(a)(1), concerning severance pay, is amended to read as follows:

<< AR ST § 21-5-223 >>

(a)(1) If the agency director determines that it is necessary to implement the state workforce reduction policy due to state agency organization structure change, budgetary reductions, abolishment of positions or duties, loss of functional responsibility by the state agency, or the loss of federal funding, grants, or other special funds, the agency director, upon approval by the Chief Fiscal Officer of the State **Secretary of the Department of Transformation and Shared Services**, may authorize the payment of funds on a regular payroll schedule as severance pay to full-time, part-time, and job sharing classified and nonclassified employees in regular positions affected by the workforce reduction on the basis of the following pro rata lump sum for completed years of service, including any formally implemented probationary period:

SECTION 6136. Arkansas Code § 21-5-402(a)(1)(I), concerning the creation and members of the State and Public School Life and Health Insurance Board, is amended to read as follows:

<< AR ST § 21-5-402 >>

(I) The ~~Executive~~ Director of the Arkansas State Board of Pharmacy or his or her state employee pharmacist designee;

SECTION 6137. Arkansas Code § 21-5-403 is amended to read as follows:

<< AR ST § 21-5-403 >>

21-5-403. Policy-making body only — Reports.

(a) The State and Public School Life and Health Insurance Board is a policy-making body only.

(b) The ~~Executive~~ Director of the Employee Benefits Division of the ~~Department of Finance and Administration~~ and the board shall report upon request to the House Committee on Insurance and Commerce and the Senate Committee on Insurance and Commerce regarding the State and Public School Life and Health Insurance Program.

SECTION 6138. Arkansas Code § 21-5-404(12)(B)(i)(a)(1), concerning the powers, functions, and duties of the State and Public School Life and Health Insurance Board, is amended to read as follows:

<< AR ST § 21-5-404 >>

(1) The ~~Executive~~ Director of the Arkansas State Board of Pharmacy or his or her pharmacist designee;

SECTION 6139. Arkansas Code § 21-5-405(a)(1), concerning the additional duties of the State and Public School Life and Health Insurance Board, is amended to read as follows:

<< AR ST § 21-5-405 >>

(a)(1) The State and Public School Life and Health Insurance Board and the Executive Director of the Employee Benefits Division of the Department of Finance and Administration shall take a risk management approach in designing the State and Public School Life and Health Insurance Program.

SECTION 6140. Arkansas Code § 21–5–405(b)(4)(B)(ii), concerning the additional duties of the State and Public School Life and Health Insurance Board, is amended to read as follows:

<< AR ST § 21–5–405 >>

(ii) Agree to rules of program participation as stated in the policies adopted by the board and as defined in the regulations and procedures issued by the Executive Director of the Employee Benefits Division of the Department of Finance and Administration, including without limitation timely eligibility reporting, prepayment of insurance premiums, actuarial adjustment for new enrollees, and any other requirements deemed necessary by the board;

SECTION 6141. Arkansas Code § 21–5–406 is amended to read as follows:

<< AR ST § 21–5–406 >>

21–5–406. Executive director Director — Staff.

(a)(1) The State and Public School Life and Health Insurance Board shall choose the Executive Director of the Employee Benefits Division of the Department of Finance and Administration with the approval of the Director of the Department of Finance and Administration **Secretary of the Department of Transformation and Shared Services**.

(2)(A) The Executive Director of the Employee Benefits Division of the Department of Finance and Administration **director** shall be employed by and serve at the pleasure of the Director of the Department of Finance and Administration **secretary, and shall perform all duties in consultation with the secretary**.

(B) However, the board may recommend the removal of the Executive Director of the Employee Benefits Division of the Department of Finance and Administration **director**, but removal is subject to the approval of the Director of the Department of Finance and Administration **secretary**.

(3) The Executive Director of the Employee Benefits Division of the Department of Finance and Administration **director** shall employ staff adequate to manage the State and Public School Life and Health Insurance Program within the funds appropriated for the program within the Department of Finance and Administration **Transformation and Shared Services**.

(b) The Executive Director of the Employee Benefits Division of the Department of Finance and Administration **director** shall establish internal controls for the fiscal management of the program.

(c)(1) The Executive Director of the Employee Benefits Division of the Department of Finance and Administration **director** and his or her staff shall be located in the Employee Benefits Division of the Department of Finance and Administration .

(2) Funds collected from employers, participating employees, retirees, and any other sources for the program, including plan options offered under the program, shall be used solely to pay medical claims, drug claims, premiums, benefits, and direct administrative expenses of the program.

(d) ~~The Executive Director of the Employee Benefits Division of the Department of Finance and Administration~~ **director** shall administer this subchapter and the rules and orders of the division and the board.

(e)(1) ~~The Executive Director of the Employee Benefits Division of the Department of Finance and Administration~~ **director** may require all participating entities to appoint health insurance representatives who shall adhere to the policies adopted by the board and the rules and procedures issued by the ~~Executive Director of the Employee Benefits Division of the Department of Finance and Administration~~ **director** in managing the enrollment and premium payment processes of the state agency or school district.

(2) ~~The Executive Director of the Employee Benefits Division of the Department of Finance and Administration~~ **director** may request the removal of a health insurance representative to ensure necessary internal controls.

(3)(A) ~~The Executive Director of the Employee Benefits Division of the Department of Finance and Administration~~ **director** has the authority to supervise the implementation and day-to-day management of the program and other employee benefits, plans, and individual and group policies made available to participants, if applicable.

(B) The authority granted under subdivision (e)(3)(A) of this section includes without limitation supervising:

(i) Life insurance coverage;

(ii) Accident coverage;

(iii) Dental coverage;

(iv) Disability benefit programs;

(v) Optional retirement programs;

(vi) Deferred compensation;

(vii) Cafeteria plans; and

(viii) Such other benefit plans, benefit programs, and individual and group benefit coverage that are offered from time to time to state employees, state employee retirees, public school employees, and public school employee retirees.

(C) The authority granted under subdivision (e)(3)(A) of this section does not include supervising the State Employees Benefit Corporation benefit plan in effect on July 1, 1995.

(D) In addition, ~~the Executive Director of the Employee Benefits Division of the Department of Finance and Administration~~ **director** and the board may utilize the services of healthcare consultants and actuaries if necessary as provided for through the appropriation of the division.

(E) The Arkansas State Police Employee Health Plan is exempt from any mandatory participation required by this section.

SECTION 6142. Arkansas Code § 21-5-411(a)(2)(A)(ii), concerning eligibility of certain retired employes to participate in the State and Public School Life and Health Insurance Program, is amended to read as follows:

<< AR ST § 21-5-411 >>

(ii) The election to enroll in the program shall be made within thirty (30) days of the state employee retiree's or public school employee retiree's becoming an active retiree and shall be made in writing to the Employee Benefits Division of the Department of Finance and Administration on forms required by the division.

SECTION 6143. Arkansas Code § 21-5-412(b)(2)(B)(i), concerning eligibility of certain elected officials to participate in the State and Public School Life and Health Insurance Program, is amended to read as follows:

<< AR ST § 21-5-412 >>

(B)(i) An elected official qualifying for continuation of participation in the program under this subsection shall be considered an eligible inactive retiree and shall have thirty-one (31) days from the effective date of termination to elect to continue program participation by notifying the Employee Benefits Division of the Department of Finance and Administration in writing on forms required by the division.

SECTION 6144. Arkansas Code § 21-5-414(a), concerning partial state contribution of employees' premiums, is amended to read as follows:

<< AR ST § 21-5-414 >>

(a) The Department of Finance and Administration **Transformation and Shared Services** shall seek the advice of the Legislative Council and the House Committee on Insurance and Commerce and the Senate Committee on Insurance and Commerce before additional state contributions can be made to the State and Public School Life and Health Insurance Program on behalf of state employees.

SECTION 6145. Arkansas Code § 21-5-415(a)(1), concerning nonpayment of premiums and failure to file reports by an agency or a school district, is amended to read as follows:

<< AR ST § 21-5-415 >>

(a)(1) If any participating state agency or school district does not remit insurance premiums and required monthly reports to the Employee Benefits Division of the Department of Finance and Administration by the last calendar day of each billing month, the division shall impose a penalty of two dollars (\$2.00) per insured member or one hundred dollars (\$100), whichever is greater.

SECTION 6146. The introductory language of Arkansas Code § 21-5-415(b)(1), concerning nonpayment of premiums and failure to file reports by an agency or a school district, is amended to read as follows:

<< AR ST § 21-5-415 >>

(b)(1) If a participating entity or participating institution fails to follow established policy and procedures set by the Executive Director of the Employee Benefits Division of the Department of Finance and Administration, including without limitation notifying the division of an insured's leave without pay, family medical leave, or military leave status or if any participating entity or participating institution provides incorrect benefit information or processes unauthorized benefit changes, including system entries that result in unreimbursed expenses to the State Employees Benefit Trust Fund or Public School Insurance Trust Fund, the division may:

SECTION 6147. Arkansas Code § 21-5-416(2), concerning annual performance audits, is amended to read as follows:

<< AR ST § 21-5-416 >>

(2) Employee Benefits Division of the Department of Finance and Administration .

SECTION 6148. Arkansas Code § 21-5-417 is amended to read as follows:

<< AR ST § 21-5-417 >>

21-5-417. State contribution for employee receiving workers' compensation.

Notwithstanding any other provisions of the law, a state agency shall remit the employer's contribution for a state employee participating in the State and Public School Life and Health Insurance Program to the Employee Benefits Division of the Department of Finance and Administration when the state employee is:

- (1) In a leave-without-pay status because of a work-related injury; and
- (2) Receiving benefits from workers' compensation.

SECTION 6149. Arkansas Code § 21-5-1101(a)(1), concerning the merit increase pay system, is amended to read as follows:

<< AR ST § 21-5-1101 >>

(a)(1) The Department of Finance and Administration **Department of Transformation and Shared Services** is authorized to develop and establish a merit increase pay system in accordance with the performance evaluation process under § 21-5-1001 et seq. for employees of all state agencies, boards, and commissions covered by the Uniform Classification and Compensation Act, § 21-5-201 et seq.

SECTION 6150. 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:

<< AR ST § 21-5-1202 >>

(b) The Department of Finance and Administration **Department of Transformation and Shared Services** shall establish appropriate procedures for the administration of this section.

SECTION 6151. 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:

<< AR ST § 21-11-104 >>

(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 6152. Arkansas Code § 21-11-105(a)(2), concerning the creation of the Suggestion Award Board, is amended to read as follows:

<< AR ST § 21-11-105 >>

(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 6153. Arkansas Code § 21-11-109(a), concerning funding and appropriations, is amended to read as follows:

<< AR ST § 21-11-109 >>

(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 6154. 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:

<< AR ST § 22-2-102 >>

(2) “Minimum standards and criteria” and other like phrases mean those standards and criteria relating to construction, design, maintenance, and leasing of state agencies' capital improvements as adopted by the Building Authority Division ~~of the Department of Finance and Administration~~ after appropriate public hearings and notice to the public and interested persons and organizations;

SECTION 6155. Arkansas Code § 22-2-104 is amended to read as follows:

<< AR ST § 22-2-104 >>

22-2-104. Creation of Building Authority Division.

(a) ~~The Building Authority Division of the Department of Finance and Administration is created~~ **There is created within the Department of Transformation and Shared Services the Building Authority Division.**

(b) The division shall carry out the duties and responsibilities set out in § 22-2-108 under the policies, guidelines, standards, and procedures established by the Department of ~~Finance and Administration~~ **Transformation and Shared Services.**

SECTION 6156. Arkansas Code § 22-2-105 is amended to read as follows:

<< AR ST § 22-2-105 >>

22-2-105. ~~Director~~ Secretary of the Department of Finance and Administration Transformation and Shared Services — Duties.

(a) ~~The Director~~ **Secretary** of the Department of ~~Finance and Administration~~ **Transformation and Shared Services** may hire sufficient staff as authorized by legislation to perform the duties of the Building Authority Division ~~of the~~

~~Department of Finance and Administration~~ . Personnel employed by the ~~director~~ **secretary** shall be compensated according to the Uniform Classification and Compensation Act, § 21-5-201 et seq., for similar duties and responsibilities.

(b) The ~~director~~ **secretary** shall be responsible for administering the rules, regulations, and policies adopted by the ~~Department of Finance and Administration~~ **Transformation and Shared Services** pursuant to the provisions of this chapter.

(c) The ~~director~~ **secretary** shall be the disbursing agent for the division and shall pay any and all accounts. The disbursing agent shall furnish and keep in effect a bond to the state with a corporate surety thereon which, together with any other bonds furnished by him or her, shall total in final sum not less than fifty thousand dollars (\$50,000) and is conditioned that he or she will faithfully perform his or her duties and properly handle all funds received and disbursed by him or her and account for those funds. The bond so furnished shall be filed in the office of the Auditor of State. The premium on the bond shall be a proper charge against funds of the division.

SECTION 6157. The introductory language of Arkansas Code § 22-2-107(a), concerning the creation of Building Authority Division sections, is amended to read as follows:

<< AR ST § 22-2-107 >>

(a) There are created within the Building Authority Division ~~of the Department of Finance and Administration~~ the following sections which shall have the duties and responsibilities designated by the ~~Director~~ **Secretary** of the ~~Department of Finance and Administration~~ **Transformation and Shared Services** and which may include, in relation to other provisions of this chapter, the duties and responsibilities respectively designated in this section:

SECTION 6158. The introductory language of Arkansas Code § 22-2-108 is amended to read as follows:

<< AR ST § 22-2-108 >>

As may be provided, allowed, or limited by the provisions of this chapter, the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** may establish policies, guidelines, standards, and procedures which shall guide and govern the Building Authority Division ~~of the Department of Finance and Administration~~ with regard to the following responsibilities, duties, powers, and activities:

SECTION 6159. Arkansas Code § 22-2-109(a)(2), concerning the acquisition of additional sites, is amended to read as follows:

<< AR ST § 22-2-109 >>

(2) In the alternative, a site may be obtained by the Building Authority Division ~~of the Department of Finance and Administration~~ by gift, purchase, or, within Pulaski County, Arkansas, by condemnation under the power of eminent domain.

SECTION 6160. Arkansas Code § 22-2-110 is amended to read as follows:

<< AR ST § 22-2-110 >>

22-2-110. Schedule of supervision generally.

The powers, authorities, and responsibilities of the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** relating to the acquisition of properties and to the

supervision of all capital improvements, as defined in § 22-2-102, shall be in accordance with the schedules of supervision as provided in §§ 22-2-111 — 22-2-113.

SECTION 6161. The introductory language of Arkansas Code § 22-2-111, concerning the schedule of supervision for type 1 undesignated funds, is amended to read as follows:

<< AR ST § 22-2-111 >>

From the funds appropriated by the General Assembly to the Building Authority Division of the ~~Department of Finance and Administration~~ not designated to be spent for a particular public building or capital improvement for a particular state agency, the division shall:

SECTION 6162. Arkansas Code § 22-2-112(a) and (b), concerning the schedule of supervision for type 2 designated funds, are amended to read as follows:

<< AR ST § 22-2-112 >>

(a) From the funds appropriated by the General Assembly to the Building Authority Division of the ~~Department of Finance and Administration~~ for the construction or purchase of a particular building or capital improvement which is specifically designated to be purchased, constructed, or improved for a particular state agency, the division shall carry out the powers, authorities, and responsibilities in respect to that construction or purchase as designated in § 22-2-111.

(b) The division shall review and approve architectural and engineering design plans and construction plans to ensure compliance with minimum design and construction standards and criteria promulgated by the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** pursuant to this chapter.

SECTION 6163. The introductory language of Arkansas Code § 22-2-113(a), concerning the schedule of supervision for type three contracts, is amended to read as follows:

<< AR ST § 22-2-113 >>

(a) In all other cases, within or without Pulaski County, Arkansas, when the construction of public buildings or capital improvements is undertaken or is presently being undertaken or is authorized but not presently under contract by or for a state agency, then the Building Authority Division of the ~~Department of Finance and Administration~~ shall serve in a technical advisory capacity to advise an agency in relation to that agency's capital improvement and to perform review and approval duties, specifically including, but not limited to, the provision and performance of the following services and duties:

SECTION 6164. Arkansas Code § 22-2-113(a)(2), concerning the schedule of supervision for type three cases when constructing public buildings or capital improvements, is amended to read as follows:

<< AR ST § 22-2-113 >>

(2) Assist the agency in reviewing architectural proposals and advising the agency in the selection of persons to perform architectural and engineering services, but the agency shall have the responsibility of selecting those persons. However, nothing in this subdivision (a)(2) shall affect the power and responsibility of the ~~division~~ **Building Authority Division** to review and approve architectural and engineering design plans and to negotiate contracts for architects' and engineers' services as otherwise provided in this section;

SECTION 6165. Arkansas Code § 22-2-113(a)(3), concerning the schedule of supervision for type three contracts, is amended to read as follows:

<< AR ST § 22-2-113 >>

(3) Review and approve architectural and engineering plans and designs to ensure compliance with minimum design and construction standards and criteria promulgated by the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** pursuant to this chapter;

SECTION 6166. Arkansas Code § 22-2-113(a)(6), concerning the schedule of supervision for type three cases when constructing public buildings or capital improvements, is amended to read as follows:

<< AR ST § 22-2-113 >>

(6) Advise and assist the agency in the selection of persons to perform construction services, but the agency shall have the responsibility of selecting the persons to perform the services. However, nothing in this subdivision (a)(6) shall affect the powers and responsibilities of the ~~division~~ **Building Authority Division** consistent with subdivisions (a)(7) and (8) of this section;

SECTION 6167. Arkansas Code § 22-2-113(a)(7)(A), concerning the schedule of supervision and type three designated funds and all other cases regarding the construction of public buildings or capital improvements, is amended to read as follows:

<< AR ST § 22-2-113 >>

(7)(A) Review and approve construction plans to ensure compliance with minimum construction standards and criteria promulgated by the ~~director~~ **secretary** as provided in this chapter.

SECTION 6168. Arkansas Code § 22-2-113(a)(7)(B)(ii), concerning the schedule of supervision for type three cases when constructing public buildings or capital improvements, is amended to read as follows:

<< AR ST § 22-2-113 >>

(ii) The State Parks, Recreation, and Travel Commission shall ensure that an unpaved trail project created under this subdivision (a)(7) meets the standards for observation by registered professionals as established by the ~~division~~ **Building Authority Division**;

SECTION 6169. Arkansas Code § 22-2-113(a)(9) and (10), concerning the schedule of supervision and type three designated funds and all other cases regarding the construction of public buildings or capital improvements, are amended to read as follows:

<< AR ST § 22-2-113 >>

(9) Assist and advise the state agency as to the operation, management, and maintenance of the capital improvement. However, the operation, management, and maintenance shall be in accordance with minimum standards as promulgated by the ~~director~~ **secretary**; and

(10) Otherwise take such action as may be necessary to carry out the policies, standards, criteria, and other rules and regulations as may be adopted or promulgated by the ~~director~~ **secretary** to implement the provisions of this chapter.

SECTION 6170. Arkansas Code § 22-2-113(b), concerning the schedule of supervision for type three cases when constructing public buildings or capital improvements, is amended to read as follows:

<< AR ST § 22-2-113 >>

(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 review, consultation, assistance, advice, and approval by the ~~division~~ **Building Authority Division** for those items listed in subsection (a) of this section. Upon approval of the ~~Department~~ **Division** of Higher Education, the governing boards of all other public institutions of higher education shall be exempt from review and approval by the ~~division~~ **Building Authority Division** for those items listed in subsection (a) of this section. However, prior to granting such approval, the ~~Department~~ **Division** of Higher Education shall have reviewed and approved policies and procedures adopted by the governing board with respect to bidding and construction of capital improvement projects. Nothing in this subdivision (b)(1) shall prevent any of the foregoing institutions exempt from review and approval of the ~~division~~ **Building Authority Division** from entering into an agreement with the ~~division~~ **Building Authority Division** to provide reviews and approval of all items listed in subsection (a) of this section.

(2) However, any of the foregoing boards which are exempt as set forth in subdivision (b)(1) of this section and which do not enter into an agreement with the ~~division~~ **Building Authority Division** shall adopt policies and procedures involving the bidding and awarding of capital improvement contracts and shall furnish such policies and procedures to the ~~Department~~ **Division** of Higher Education for its review and advice. It is the intention of this section that any and all adopted policies and procedures pertaining to the bidding and awarding of capital improvement contracts from public funds as stated herein shall provide a uniformity among the foregoing institutions with respect to the policies and procedures to be followed.

SECTION 6171. The introductory language of Arkansas Code § 22-2-114(a), concerning leasing responsibilities of the Building Authority Division, is amended to read as follows:

<< AR ST § 22-2-114 >>

(a) It is the intent of the General Assembly that state agencies be housed, whenever possible, in public buildings as soon as space and facilities in public buildings are available and that the acquisition and granting of leasehold interests in land be regulated and supervised by the Building Authority Division ~~of the Department of Finance and Administration~~ . The division and all other state agencies are authorized and directed to implement that intent as follows:

SECTION 6172. Arkansas Code § 22-2-114(a)(2), concerning leasing responsibilities of the Building Authority Division, is amended to read as follows:

<< AR ST § 22-2-114 >>

(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 6173. Arkansas Code § 22–2–114(a)(3) and (4), concerning leasing responsibilities of the Building Authority Division, are amended to read as follows:

<< AR ST § 22–2–114 >>

(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 6174. Arkansas Code § 22–2–114(a)(5)(A)(i), concerning leasing responsibilities of the Building Authority Division, is amended to read as follows:

<< AR ST § 22–2–114 >>

(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.

SECTION 6175. Arkansas Code § 22–2–114(a)(6), concerning leasing responsibilities of the Building Authority Division, is amended to read as follows:

<< AR ST § 22–2–114 >>

(6) Leases as to office space, buildings, structures, parking lots, and grounds from private individuals, firms, and corporations by state agencies and component parts thereof shall be on a standard lease form approved by the ~~director~~ **secretary**. The standard lease form shall contain all terms and conditions deemed necessary based on the type and purpose of the leased property. The ~~director~~ **secretary** also shall adopt a standard lease form to be used by state agencies when subleasing from the division. Both standard lease forms shall be approved as to the legality of form and content by the Attorney General before becoming a requirement; and

SECTION 6176. Arkansas Code § 22–2–115(a), concerning lease-purchase agreements, is amended to read as follows:

<< AR ST § 22–2–115 >>

(a) For the express purpose of providing adequate office facilities, the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services**, acting as the primary lessor, may enter into lease-purchase agreements to obtain facilities for state agencies. Each lease-purchase agreement shall contain

a provision whereby the agreement shall be cancelled at the close of each fiscal biennium, if necessary, if funds for the payment of the rent under the lease-purchase agreement will not be available.

SECTION 6177. Arkansas Code § 22-2-115(b)(1), concerning lease-purchase agreements, is amended to read as follows:

<< AR ST § 22-2-115 >>

(b)(1) The ~~director~~ **secretary** shall make the final determination regarding the location or construction of facilities with the advice and consent of the appropriate state agency.

SECTION 6178. Arkansas Code § 22-2-116(a), concerning maintenance responsibilities of the Building Authority Division, is amended to read as follows:

<< AR ST § 22-2-116 >>

(a) The Building Authority Division ~~of the Department of Finance and Administration~~ shall provide for the management, maintenance, and operation of public buildings as may be required by the provisions and implementation of this chapter, or as may otherwise be required by law.

SECTION 6179. The introductory language of Arkansas Code § 22-2-117(a), concerning maintenance responsibilities of the Building Authority Division for the Capitol Zoning District, is amended to read as follows:

<< AR ST § 22-2-117 >>

(a) As to all presently existing public buildings and capital improvements within the Capitol Zoning District, as zoned by § 22-3-302(a), any person or entity responsible for the custody, management, maintenance, repair, operation, or landscaping of such public buildings and capital improvements and their grounds shall be accountable to the Building Authority Division ~~of the Department of Finance and Administration~~ as follows:

SECTION 6180. Arkansas Code § 22-2-118 is amended to read as follows:

<< AR ST § 22-2-118 >>

22-2-118. Plans, specifications, and estimates of costs.

The Building Authority Division ~~of the Department of Finance and Administration~~ is authorized to employ, except as limited by § 22-2-108(9), such persons as may be necessary to prepare plans, specifications, and estimates of costs for capital improvements which, under the provisions of this chapter, are the responsibility of the division.

SECTION 6181. Arkansas Code § 22-2-120 is amended to read as follows:

<< AR ST § 22-2-120 >>

22-2-120. Exemption from statutes concerning Capitol Zoning District.

(a) The construction, acquisition, management, maintenance, or operation of capital improvements and public buildings by the Building Authority Division ~~of the Department of Finance and Administration~~ under this chapter is declared to be exempt from the operation and implementation of the provisions of §§ 22-3-301 — 22-3-311.

(b) ~~The Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** shall endeavor to cooperate with the Capitol Zoning District Commission so as to establish coordinated physical development in the State Capitol area and to promote the uniform and appropriate regulation and development of the State Capitol area.

SECTION 6182. The introductory language of Arkansas Code § 22-2-121(a), concerning the real estate compilation, is amended to read as follows:

<< AR ST § 22-2-121 >>

(a) ~~The Building Authority Division of the Department of Finance and Administration~~ shall:

SECTION 6183. Arkansas Code § 22-3-313 is amended to read as follows:

<< AR ST § 22-3-313 >>

22-3-313 . Capitol Zoning District Commission — Powers.

(a) ~~Effective July 1, 1997, the Director of the Department of Finance and Administration, as Chief Fiscal Officer of the State, shall transfer all authority and responsibility of the Arkansas Building Authority and the Director of the Arkansas Building Authority with respect to the Capitol Zoning District Commission to the Capitol Zoning District Commission and to the Director of the Capitol Zoning District Commission.~~

~~(b) The commission and its staff shall be a separate and distinct agency of government.~~

SECTION 6184. Arkansas Code § 22-3-401(a), concerning the purpose of traffic control and parking regulations on the State Capitol grounds, is amended to read as follows:

<< AR ST § 22-3-401 >>

(a) The purpose of this subchapter is to establish a system of traffic control and parking regulations governing the drives and parking areas on the State Capitol grounds and other drives and parking areas in the custody of or leased by the Secretary of State or the ~~Building Authority Division of the Department of Finance and Administration~~ .

SECTION 6185. Arkansas Code § 22-3-405(b)(2) and (3), concerning the creation and members of the Capitol Parking Control Committee, are amended to read as follows:

<< AR ST § 22-3-405 >>

(2) ~~The Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** or his or her designee; and

(3) A state employee designated by the Secretary of State who is employed on the State Capitol grounds in a position of administrator or higher by an agency or office other than that of the Secretary of State or of the Building Authority Division ~~of the Department of Finance and Administration~~ .

SECTION 6186. Arkansas Code § 22-3-405(c), concerning the creation and members of the Capitol Parking Control Committee, are amended to read as follows:

<< AR ST § 22-3-405 >>

(c) The Secretary of State shall be the chair of the committee, and the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** or his or her designee shall serve as secretary **of the committee**.

SECTION 6187. The introductory language of Arkansas Code § 22-3-406, concerning the powers and duties of the Capitol Parking Control Committee, is amended to read as follows:

<< AR ST § 22-3-406 >>

Upon the passage of this subchapter, the Capitol Parking Control Committee shall proceed to study the traffic conditions on the drives of the State Capitol grounds and shall make a study of the existing and anticipated needs for parking space on the State Capitol grounds and other parking lots and drives leased by or in the custody of the Secretary of State or the Building Authority Division ~~of the Department of Finance and Administration~~. Upon completion of the study, the committee shall establish rules and regulations and shall amend or change them from time to time as deemed necessary in the following manner:

SECTION 6188. The introductory language of Arkansas Code § 22-3-905, concerning the duties and powers of the Building Authority Division, is amended to read as follows:

<< AR ST § 22-3-905 >>

It shall be the function, power, and duty of the Building Authority Division ~~of the Department of Finance and Administration~~ to:

SECTION 6189. Arkansas Code § 22-3-906 is amended to read as follows:

<< AR ST § 22-3-906 >>

**22-3-906. Director of the Department of Finance and Administration
Secretary of the Department of Transformation and Shared Services.**

(a) The ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** shall be the custodian of all property held in the name of the Building Authority Division ~~of the Department of Finance and Administration~~, shall be its disbursing agent and executive officer, and shall administer the provisions of this subchapter and the rules, regulations, and orders established thereunder.

(b) The ~~director~~ **Secretary of the Department of Transformation and Shared Services** shall employ such assistants and other personnel as are, in his or her opinion, necessary to properly administer the provisions of this subchapter.

(c)(1) The ~~director~~ **Secretary of the Department of Transformation and Shared Services** shall furnish bond to the state, with a corporate surety thereon, in the penal sum of twenty-five thousand dollars (\$25,000), conditioned that he or she will faithfully perform his or her duties and properly account for all funds received and disbursed by him or her.

(2) An additional disbursing agent's bond shall not be required of the ~~director~~ **Secretary of the Department of Transformation and Shared Services**, and the bond so furnished shall be filed in the office of the Secretary of State, and an executed counterpart thereof shall be filed with the Auditor of State.

(3) The premium on the bond shall be a proper charge against the funds under the control of the ~~director~~ **Secretary of the Department of Transformation and Shared Services**.

SECTION 6190. Arkansas Code § 22-3-907 is amended to read as follows:

<< AR ST § 22-3-907 >>

22-3-907. Financing authority of Building Authority Division of the Department of Finance and Administration .

The Building Authority Division ~~of the Department of Finance and Administration~~ is authorized and empowered to enter into the necessary contracts for the borrowing of all funds that it determines will be required in connection with the financing of the Arkansas Justice Building or the construction of extensions, additions, or improvements thereto. The cost of construction may include architectural, engineering, legal, and other similar expenses.

SECTION 6191. Arkansas Code § 22-3-916 is amended to read as follows:

<< AR ST § 22-3-916 >>

22-3-916. Audit of accounts — Reports.

The agency of the state authorized by law to audit the records and accounts of the various state agencies is authorized and directed to audit the records and accounts of the Building Authority Division ~~of the Department of Finance and Administration~~ and to furnish a copy of the report thereof to the division and to the trustee for the bondholders.

SECTION 6192. Arkansas Code § 22-3-917(a)(1), concerning the employment of an architect and fees, is amended to read as follows:

<< AR ST § 22-3-917 >>

(a)(1) The Building Authority Division ~~of the Department of Finance and Administration~~ may employ an architect to prepare plans, specifications, and estimates of cost for the construction of the Arkansas Justice Building and to supervise and inspect the construction.

SECTION 6193. Arkansas Code § 22-3-918(a)(1), concerning the notice for bids for construction and execution of contracts, is amended to read as follows:

<< AR ST § 22-3-918 >>

(a)(1) After the Building Authority Division ~~of the Department of Finance and Administration~~ has approved the plans and specifications prepared by the architect, it shall proceed to advertise for bids for the construction of the Arkansas Justice Building.

SECTION 6194. Arkansas Code § 22-3-918(d), concerning the notice for bids for construction and execution of contracts, is amended to read as follows:

<< AR ST § 22-3-918 >>

(d) The ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** shall execute all contracts awarded by the division.

SECTION 6195. Arkansas Code § 22-3-1101(a)(1), concerning the acquisition of facilities by the state for holding the Arkansas State Fair and Livestock Show, is amended to read as follows:

<< AR ST § 22-3-1101 >>

(a)(1) The Building Authority Division ~~of the Department of Finance and Administration~~ may enter into an agreement with the Arkansas Livestock Show Association and make such contracts as are necessary for the purpose of purchasing the permanent site of the association and for the purchase or construction of buildings and facilities for the holding of the Arkansas State Fair and Livestock Show.

SECTION 6196. Arkansas Code § 22-3-1102(a), concerning the power of eminent domain, is amended to read as follows:

<< AR ST § 22-3-1102 >>

(a) From and after the passage and approval of this section, the Building Authority Division ~~of the Department of Finance and Administration~~ may acquire by eminent domain any real property, including the improvements and fixtures on the property that it may deem necessary to provide a permanent site and show facilities for a state fair and livestock show and for aid to the livestock industry.

SECTION 6197. Arkansas Code § 22-3-1206(a), concerning the filing of a financial statement prior to a plan of proposed construction work and review, is amended to read as follows:

<< AR ST § 22-3-1206 >>

(a) Before certificates of indebtedness as authorized by this subchapter may be issued by the Building Authority Division ~~of the Department of Finance and Administration~~ and purchased by the State Board of Finance, the division shall develop a plan for all proposed construction work to be performed, the location at which the work is to be performed, and the proposed use of the improvements to be carried out under the construction, together with the estimated cost thereof, and shall file a copy thereof with the Legislative Council, the Governor, and the Chief Fiscal Officer of the State at least sixty (60) days prior to the issuance of the certificates of indebtedness.

SECTION 6198. Arkansas Code § 22-3-1207(a)(1), concerning the issuance and purchase of a certificate of indebtedness authorized, is amended to read as follows:

<< AR ST § 22-3-1207 >>

(a)(1) For the purpose of providing funds for the construction of buildings as authorized in this subchapter, the **Director of the Building Authority Division** ~~of the Department of Finance and Administration~~, with the approval of the Governor **and the Secretary of the Department of Transformation and Shared Services**, is authorized and empowered to issue, and the State Board of Finance is authorized and empowered to purchase, division certificates of indebtedness of a total principal amount not to exceed twenty-five million dollars (\$25,000,000).

SECTION 6199. Arkansas Code § 22-3-1208(a)(1), concerning the terms and execution of certificates of indebtedness, is amended to read as follows:

<< AR ST § 22-3-1208 >>

(a)(1) The certificates of indebtedness shall be in such form and denomination, and shall have such dates and maturities, and may be issued in such series, as the Building Authority Division of the ~~Department of Finance and Administration~~ shall determine.

SECTION 6200. Arkansas Code § 22-3-1208(d), concerning the terms and execution of certificates of indebtedness, is amended to read as follows:

<< AR ST § 22-3-1208 >>

(d) The certificates of indebtedness shall be executed on behalf of the division by the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services**.

SECTION 6201. Arkansas Code § 22-3-1209(a), concerning the pledge of revenues and restrictions on a certificate of indebtedness, is amended to read as follows:

<< AR ST § 22-3-1209 >>

(a) The certificates shall be the obligations of the Building Authority Division of the ~~Department of Finance and Administration~~, and the nontax revenues available to the division under the provisions of § 22-3-1210, as distinguished from any tax moneys which may be made available for the operation of the division, are pledged to secure the payment of the certificates.

SECTION 6202. Arkansas Code § 22-3-1210(c)(1)(B), concerning the Public Facilities Debt Service Fund and certificates of indebtedness, is amended to read as follows:

<< AR ST § 22-3-1210 >>

(B) Commencing on the first day of the month next succeeding the issuance of certificates of indebtedness under this subchapter, but not before July 1, 1983, and so long as any certificates are outstanding under this subchapter, the pledged revenues, except as provided herein, shall be deposited into the State Treasury as and when received by the Department of Correction, by the Building Authority Division of the ~~Department of Finance and Administration~~, by state-supported institutions of higher education, or by any other state agency, as the case may be, to the credit of a fund to be designated the "Public Facilities Debt Service Fund".

SECTION 6203. Arkansas Code § 22-3-1212(c), concerning retirement and funds used for the purchase of certificates of indebtedness, is amended to read as follows:

<< AR ST § 22-3-1212 >>

(c) The certificates of indebtedness which have been paid and cancelled by the Treasurer of State shall be delivered to the Building Authority Division of the ~~Department of Finance and Administration~~.

SECTION 6204. Arkansas Code § 22–3–1213(a), concerning the alternative method of payment for a certificate of indebtedness, is amended to read as follows:

<< AR ST § 22–3–1213 >>

(a) In the event it shall be determined that the procedure set forth in § 22–3–1212 for the retirement of the certificates is unconstitutional or invalid for any reason, the ~~Building Authority Division of the Department of Finance and Administration~~ is authorized and directed to establish an account in its name in a bank to be approved by the State Board of Finance and to deposit therein so much of the first moneys received by it each year under the provisions of § 22–3–1210 as shall be required to meet the next ensuing principal and interest maturities of its outstanding certificates, together with such additional amounts as may be necessary to pay any certificates which it shall determine to retire in advance of maturity.

SECTION 6205. The introductory language of Arkansas Code § 22–3–1216, concerning covenants and authorizing resolutions as an enforceable contracts, is amended to read as follows:

<< AR ST § 22–3–1216 >>

Any authorizing resolution shall, together with this subchapter, constitute a contract between the Building Authority Division of the ~~Department of Finance and Administration~~ , and the State Board of Finance, and the Treasurer of State, which contract and all covenants, agreements, and obligations therein shall be promptly performed in strict compliance with its terms and provisions, and the covenants, agreements, and obligations of the division may be enforced by mandamus or other appropriate proceeding at law or in equity. In this regard, the division is expressly authorized to include in any authorizing resolution all or part of the following covenants:

SECTION 6206. Arkansas Code § 22–3–1217 is amended to read as follows:

<< AR ST § 22–3–1217 >>

22–3–1217. Disposition of revenues from agricultural and livestock activities of correctional facility.

(a)(1) Prior to the issuance of certificates of indebtedness as authorized by this subchapter, all moneys collected by the ~~Department~~ **Division** of Correction from the sale or disposition of farm products, livestock, or other products produced in connection with agricultural and livestock activities at institutions under the control of the Board of Corrections, from the rental of farm properties under the control of the board, and from payments from agencies of the state or federal government in connection with the farm operations of the ~~department~~ **Division of Correction** shall be deposited into the State Treasury as special revenues for credit to the ~~Department~~ **Division** of Correction Farm Fund, as authorized by law, to be used for the maintenance, operation, and improvement of the agriculture and farm programs of the ~~department~~ **Division of Correction**.

(2) Moneys which the ~~department~~ **Division of Correction** shall determine not to be necessary in defraying expenses of operating the agriculture programs of the ~~department~~ **Division of Correction** and which are profit or surplus from the operation of the agriculture programs shall, upon certification by the board to the Chief Fiscal Officer of the State, be transferred by the Chief Fiscal Officer of the State from the ~~Department~~ **Division** of Correction Farm Fund to the ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account within the State General Government Fund, to be used to supplement general revenues provided for the maintenance, operation, and improvement of the ~~department~~ **Division of Correction**, as provided by law.

(b)(1) Commencing the first day of the month next succeeding the issuance of any certificates of indebtedness as authorized by this subchapter, the moneys described in this section shall be pledged revenues, as stated in § 22–3–1210, and shall be deposited into the Public Facilities Debt Service Fund as established in § 22–3–1210.

(2) Any surplus prison farm moneys in the Public Facilities Debt Service Fund, as defined in the authorizing resolution, shall be transferred to the ~~Department~~ **Division** of Correction Farm Fund, upon certification by the Building Authority Division ~~of the Department of Finance and Administration~~ to the Chief Fiscal Officer of the State, to the Treasurer of State, and to the Auditor of State, to be used for the maintenance, operation, and improvement of the agriculture and farm programs of the ~~Department~~ **Division** of Correction, as provided by law.

(3) Such moneys deposited into the ~~Department~~ **Division** of Correction Farm Fund which the ~~department~~ **Division of Correction** shall determine not to be necessary in defraying expenses of operating the agriculture and farm programs of the ~~department~~ **Division of Correction** shall be, upon certification thereof by the board to the Chief Fiscal Officer of the State, transferred by the Chief Fiscal Officer of the State from the ~~Department~~ **Division** of Correction Farm Fund to the ~~Department~~ **Division** of Correction Inmate Care and Custody Fund Account within the State General Government Fund to be used to supplement general revenues provided for the maintenance, operation, and improvement of the ~~department~~ **Division of Correction**, as provided by law.

SECTION 6207. Arkansas Code § 22–3–1219(a), concerning the notice for bids for construction and the employment of architects and other professionals, is amended to read as follows:

<< AR ST § 22–3–1219 >>

(a) The Building Authority Division ~~of the Department of Finance and Administration~~ is authorized to employ architects to prepare plans, specifications, and estimates of costs for the construction of any and all facilities authorized by the provisions of this subchapter and to supervise and inspect the construction.

SECTION 6208. Arkansas Code § 22–3–1311 is amended to read as follows:

<< AR ST § 22–3–1311 >>

22–3–1311. Termination of contracts with sighted vendors.

On state property where vending facilities are being operated by those other than the blind, when the present contract or agreement expires or is terminated for any reason or when a change in the present vending facility is imminent, the future planned vending facility for such state property shall be covered by this subchapter, and state agency administrators shall contact the licensing agency to assure preference for the blind. Provided, however, leases executed under § 22–2–114 prior to June 1, 1999, shall not be considered a contract or agreement within this subchapter if the property is owned by the Building Authority Division ~~of the Department of Finance and Administration~~ .

SECTION 6209. Arkansas Code § 22–3–1403(4), concerning the definition of “construct” under the State Agencies Facilities Acquisition Act of 1991 , is amended to read as follows:

<< AR ST § 22–3–1403 >>

(4) “Construct” means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements, or other property, real, personal, or mixed, useful in connection therewith and to make other necessary expenditures in connection therewith by such methods and in such manner as the Building Authority Division ~~of the Department of Finance and Administration~~ shall determine to be necessary or desirable to accomplish the powers, purposes, and authority set forth in this subchapter.

SECTION 6210. The introductory language of Arkansas Code § 22-3-1404, concerning the powers of the Building Authority Division under the State Agencies Facilities Acquisition Act of 1991, is amended to read as follows:

<< AR ST § 22-3-1404 >>

In addition to the purposes, powers, and authority set forth elsewhere in this subchapter or in other laws, the Building Authority Division of the ~~Department of Finance and Administration~~ may:

SECTION 6211. Arkansas Code § 22-3-1404(8), concerning the powers of the Building Authority Division under the State Agencies Facilities Acquisition Act of 1991, is amended to read as follows:

<< AR ST § 22-3-1404 >>

(8) Take such other actions not inconsistent with law as may be necessary or desirable to carry out the powers, purposes, and authority as set forth in this section in accordance with the policies promulgated by the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services**.

SECTION 6212. The introductory language of Arkansas Code § 22-3-1405, concerning the duties of the Building Authority Division under the State Agencies Facilities Acquisition Act of 1991, is amended to read as follows:

<< AR ST § 22-3-1405 >>

In addition to the purposes, powers, and authority set forth elsewhere in this subchapter or in other laws, in connection with the construction and equipping of buildings and facilities in Little Rock, Arkansas, to house state agencies, the Building Authority Division of the ~~Department of Finance and Administration~~ may:

SECTION 6213. Arkansas Code § 22-3-1405(4), concerning the duties of the Building Authority Division under the State Agencies Facilities Acquisition Act of 1991, is amended to read as follows:

<< AR ST § 22-3-1405 >>

(4) Take such other actions not inconsistent with law as may be necessary or desirable to carry out the powers, purposes, and authority set forth herein, in accordance with the policies promulgated by the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** as authorized by law.

SECTION 6214. Arkansas Code § 22-3-1407(a) and (b), concerning revenue bonds, are amended to read as follows:

<< AR ST § 22-3-1407 >>

(a) Pursuant to the intention of the General Assembly expressed in § 15-5-303, the Arkansas Development Finance Authority, in cooperation with the Building Authority Division of the ~~Department of Finance and Administration~~, is hereby authorized and empowered to issue revenue bonds at one (1) time or from time to time, and to use the proceeds thereof for defraying the costs of accomplishing all or part of the powers, purposes, and authorities set forth in this subchapter and all expenses incidental thereto, including, without limitation, expenses for the operation and maintenance of such facilities pending completion of the construction, repair, remodeling, or renovation, paying the expenses of authorizing and issuing the bonds, establishing a debt service reserve to secure the payment of the bonds, if the Arkansas

Development Finance Authority deems such desirable, and making provision for the payment of debt service on the bonds, including fees of trustees and paying agents, until revenues for the payment thereof are available.

(b) The bonds outstanding under this subchapter may be in such principal amount as the Arkansas Development Finance Authority and the Building Authority Division of the ~~Department of Finance and Administration~~ shall determine to be necessary for the accomplishment of the purposes of this subchapter.

SECTION 6215. Arkansas Code § 22-3-1410 is amended to read as follows:

<< AR ST § 22-3-1410 >>

22-3-1410. Contract between Arkansas Development Finance Authority and holders and owners of bonds.

(a) Any authorizing resolution and trust indenture shall, together with this subchapter, constitute a contract between the Arkansas Development Finance Authority and the holders and registered owners of the bonds, which contract, and all covenants, agreements, and obligations therein, shall be promptly performed in strict compliance with the terms and provisions of such contract, and the covenants, agreements, and obligations of the Building Authority Division of the ~~Department of Finance and Administration~~ may be enforced by mandamus or other appropriate proceedings at law or in equity.

(b) In this regard, in addition to other provisions referred to in this subchapter, the Building Authority Division of the ~~Department of Finance and Administration~~ is hereby expressly authorized to include in any authorizing resolution or trust indenture assurance that, to the fullest extent possible, it will always charge, impose, and collect sufficient rentals and other revenue to meet, as due, all debt service requirements, maintain reserves at proper levels, and otherwise comply with any provisions of authorizing resolutions or trust indentures concerning revenues and bonds.

SECTION 6216. The introductory language of Arkansas Code § 22-3-1415(a), concerning the supervision and management of buildings and facilities, is amended to read as follows:

<< AR ST § 22-3-1415 >>

(a) The Building Authority Division of the ~~Department of Finance and Administration~~ may supervise and manage buildings and other facilities constructed pursuant to the authority granted in this subchapter and to manage, maintain, and repair those buildings and facilities to provide rental space to be made available for the housing of state agencies, departments, boards, commissions, and institutions, or other tenants at such rental rates as deemed necessary:

SECTION 6217. Arkansas Code § 22-3-1501 is amended to read as follows:

<< AR ST § 22-3-1501 >>

22-3-1501. Intent.

The Building Authority Division of the ~~Department of Finance and Administration~~ shall provide adequate facilities for those agencies located in the Capitol Mall area. The services provided by these agencies are varied. Parking spaces for these tenants have not kept up with current growth, thereby diminishing effective services provided by these agencies. The public access to the Capitol Mall area has been diminished by the lack of adequate parking. The construction of a parking deck facility, surface parking, and street improvements will help to alleviate such diminished services and lack of access.

SECTION 6218. Arkansas Code § 22–3–1502(a)(1), concerning the Building Authority Division's authority to build and maintain parking facilities, is amended to read as follows:

<< AR ST § 22–3–1502 >>

(a)(1) Any other provision of law to the contrary notwithstanding, the Building Authority Division ~~of the Department of Finance and Administration~~ is hereby authorized to construct, manage, and maintain parking deck facilities, surface parking, and street improvements, called in this subchapter the “parking facilities”, in the area described in § 22–3–302(a).

SECTION 6219. Arkansas Code § 22–3–1503 is amended to read as follows:

<< AR ST § 22–3–1503 >>

22–3–1503. Parking regulation.

The Building Authority Division ~~of the Department of Finance and Administration~~ shall develop parking regulations which will maintain equitable parking among the state agency tenants in the area described in § 22–3–1501 and for the public and may establish reasonable rental or other charges for parking therein. The State Capitol Police shall provide the necessary traffic patrols and policing of the parking facility.

SECTION 6220. Arkansas Code § 22–3–1504 is amended to read as follows:

<< AR ST § 22–3–1504 >>

22–3–1504. Utility easement.

The Building Authority Division ~~of the Department of Finance and Administration~~ , on behalf of the State of Arkansas, is hereby granted an easement or license over the State Capitol Building, the various buildings on the State Capitol grounds, and the State Capitol grounds for the purpose of installing or relocating utilities, connecting the facility to an existing structure, and such other purposes as are necessary and consistent with this project as authorized by this subchapter.

SECTION 6221. Arkansas Code § 22–3–1505(a)(1), concerning funding for the Building Authority Division, is amended to read as follows:

<< AR ST § 22–3–1505 >>

(a)(1) The Building Authority Division ~~of the Department of Finance and Administration~~ is authorized and empowered to obtain the necessary funds for accomplishing its powers, purposes, and authority from any source or sources necessary and consistent with this subchapter, including without limitation contracting with the Arkansas Development Finance Authority to provide for the issuance of bonds by the Arkansas Development Finance Authority in accordance with the State Agencies Facilities Acquisition Act of 1991, § 22–3–1401 et seq.

SECTION 6222. Arkansas Code § 22–3–1506 is amended to read as follows:

<< AR ST § 22–3–1506 >>

22–3–1506. Exceptions.

The provisions of § 22–3–301 et seq., pertaining to the Capitol Zoning District Commission, § 22–3–401 et seq., pertaining to the Capitol Parking Control Committee, § 22–3–501 et seq., pertaining to the Capitol Arts and Grounds Commission,

and § 22–3–202, pertaining to the Secretary of State, or any other provision of law inconsistent with the intent of this subchapter shall not be applicable to the Building Authority Division of the Department of Finance and Administration in connection with the parking facilities contemplated by this subchapter, and no filings, consents, or approvals shall be required from any agency of the state prior to the construction, renovation, or repair of parking facilities or concerning the operations thereof.

SECTION 6223. Arkansas Code § 22–3–1901 is amended to read as follows:

<< AR ST § 22–3–1901 >>

22–3–1901. Sustainable Building Design Program for State Agencies.

There is created the Sustainable Building Design Program for State Agencies to be administered by the Building Authority Division of the Department of Finance and Administration .

SECTION 6224. Arkansas Code § 22–3–1903(a), concerning loans under the Sustainable Building Design Program for State Agencies, is amended to read as follows:

<< AR ST § 22–3–1903 >>

(a) Under the Sustainable Building Design Program for State Agencies, the Building Authority Division of the Department of Finance and Administration may authorize money to be loaned from the Sustainable Building Design Revolving Loan Fund to a state agency, board, or commission.

SECTION 6225. Arkansas Code § 22–3–1904(a)(1), concerning the loan approval process, is amended to read as follows:

<< AR ST § 22–3–1904 >>

(1) Apply on a form approved by the Building Authority Division of the Department of Finance and Administration ;
and

SECTION 6226. Arkansas Code § 22–6–601(a)(1)(A), concerning the sale procedure for lands of state institutions, is amended to read as follows:

<< AR ST § 22–6–601 >>

(a)(1)(A) The several state boards or commissions having supervision of the affairs of the charitable, penal, correctional, educational, and other institutions of the State of Arkansas and all other state boards and commissions, except the State Highway Commission, the Arkansas State Game and Fish Commission, the Arkansas Natural Heritage Commission, the State Parks, Recreation, and Travel Commission, the Department **Division** of Higher Education, and institutions of higher education, and the executive heads of all state offices, departments, **divisions**, and agencies, all referred to separately as “state agency”, may sell or purchase, for cash in hand and upon compliance with the provisions of this section, the lands, in whole or in part, belonging to or under the supervision or control of the respective state agency or belonging to the state and held for the use or benefit of the state agency.

SECTION 6227. Arkansas Code § 22–6–601(a)(2)(D), concerning the sale procedure for lands of state institutions, is amended to read as follows:

<< AR ST § 22-6-601 >>

(D) The exchange of state lands for other lands which are suitable for state purposes if the ~~Director~~ **Secretary** of the Department of Finance and Administration has made a recommendation to the Governor that the exchange be made and if the Governor has approved the exchange.

SECTION 6228. Arkansas Code § 22-6-601(b), concerning the procedure for the sale of state lands, is amended to read as follows:

<< AR ST § 22-6-601 >>

(b)(1) State agencies may transfer lands in whole or in part to the Building Authority Division ~~of the Department of Finance and Administration~~ for the use of that agency or other state agencies.

(2) In the event that the ~~division~~ **Building Authority Division** shall sell the lands at a later date, the provisions of this section shall apply, and the proceeds of the sale, less any expenses and liquidated damages, shall be deposited into the State Treasury as a nonrevenue receipt to the credit of the fund from which the agency that transferred the land to the ~~division~~ **Building Authority Division** is operated.

SECTION 6229. Arkansas Code § 22-6-601(c)(1), concerning the procedure for the sale of state lands, is amended to read as follows:

<< AR ST § 22-6-601 >>

(c)(1) In the event that a state agency elects to sell certain of its lands or to purchase lands, the agency shall certify to the ~~division~~ **Building Authority Division** its proposal for any sale or purchase.

SECTION 6230. Arkansas Code § 22-6-601(c)(2)(A), concerning the sale procedure of state lands, is amended to read as follows:

<< AR ST § 22-6-601 >>

(2)(A) The state agency proposing the sale or purchase of land shall obtain the services of a qualified appraiser to appraise the lands so proposed to be sold or purchased, with notice to the ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services**.

SECTION 6231. Arkansas Code § 22-6-601(d), concerning the procedure for the sale of state lands, is amended to read as follows:

<< AR ST § 22-6-601 >>

(d)(1) The ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** shall furnish to the Governor:

- (A) The appraisal;
- (B) The agency proposal to sell or purchase; and
- (C) The ~~division's~~ **Building Authority Division's** recommendations.

(2) The Governor, if he or she approves the proposed sale or purchase, shall endorse his or her approval of the proposal and transmit a copy of the proposal to the ~~Director~~ **Secretary** of the Department of Finance and Administration **and the Secretary of the Department of Transformation and Shared Services.**

SECTION 6232. Arkansas Code § 22-6-601(e)(1), concerning the procedure for the sale of state lands, is amended to read as follows:

<< AR ST § 22-6-601 >>

(e)(1) The ~~division~~ **Building Authority Division** shall give notice of the terms of the sale by publication in one (1) newspaper regularly published in Little Rock, Arkansas, and having a general circulation in the State of Arkansas, by four (4) weekly insertions therein.

SECTION 6233. Arkansas Code § 22-6-601(f), concerning the procedure for the sale of state lands, is amended to read as follows:

<< AR ST § 22-6-601 >>

(f) The notice shall specify a time and place, which time shall be not less than thirty (30) days from and after the date of the first insertion of the notice, for the receipt by the ~~division~~ **Building Authority Division** of sealed bids for the purchase of the lands.

SECTION 6234. Arkansas Code § 22-6-601(g)(4), concerning the procedure for the sale of state lands, is amended to read as follows:

<< AR ST § 22-6-601 >>

(4) The ~~division~~ **Building Authority Division**, at the time and place specified in the notice, or by announcement then and there, or at some other time or place, shall open the bids which have been received and proceed to accept the highest bid properly accompanied by a cashier's check for the lands in whole or in part as offered for such sale.

SECTION 6235. Arkansas Code § 22-9-101(c)(2)(B), concerning the requirement of observation by registered professionals, is amended to read as follows:

<< AR ST § 22-9-101 >>

(B) The State Parks, Recreation, and Travel Commission shall ensure that an unpaved trail project created under this subdivision (c)(2) meets the standards for observation by registered professionals as established by the Building Authority Division ~~of the Department of Finance and Administration~~ .

SECTION 6236. Arkansas Code § 22-9-201(c)(3), concerning the applicability of §§ 22-9-202 — 22-9-204, is amended to read as follows:

<< AR ST § 22-9-201 >>

(3) “Emergency contracting procedures” means the acquisition of services and materials for capital improvements, including without limitation acquisitions funded in whole or in part with insurance proceeds, that are in accordance with the minimum standards and criteria of the Building Authority Division of the Department of Finance and Administration .

SECTION 6237. Arkansas Code § 22–9–201(c)(5), concerning the applicability of §§ 22–9–202 — 22–9–204, is amended to read as follows:

<< AR ST § 22–9–201 >>

(5) The Director of the Department of Finance and Administration **Secretary of the Department of Transformation and Shared Services** or a designee may make or authorize others to make emergency contracting procedures as defined in subdivision (c)(3) of this section and in accordance with the minimum standards and criteria of the division.

SECTION 6238. Arkansas Code § 22–9–203(a)(1), concerning the award procedure for public improvements, is amended to read as follows:

<< AR ST § 22–9–203 >>

(1) The state or any agency of the state shall have first published notice of its intention to receive bids one (1) time each week for not less than two (2) consecutive weeks for projects more than the amount of fifty thousand dollars (\$50,000) and published notice of its intention to receive bids one (1) time each week for not less than one (1) week for projects more than the quote bid limit, as provided under the minimum standards and criteria of the Building Authority Division of the Department of Finance and Administration , but less than or equal to fifty thousand dollars (\$50,000) in a newspaper of general circulation published in the county in which the proposed improvements are to be made or in a trade journal reaching the construction industry; and

SECTION 6239. Arkansas Code § 22–9–204(c)(2), concerning the penalty for subcontracts exceeding fifty thousand dollars (\$50,000), is amended to read as follows:

<< AR ST § 22–9–204 >>

(2) In the event that one (1) or more of the subcontractors named by the prime contractor in his or her successful bid thereafter refuses to perform his or her contract or offered contract, the prime contractor may substitute another subcontractor licensed by the board after having obtained prior approval from the architect or engineer and the owner. Additional approval must be obtained from the Building Authority Division of the Department of Finance and Administration for capital improvement projects under its jurisdiction.

SECTION 6240. Arkansas Code § 22–9–208(a)(3), concerning renovation of historic sites, is amended to read as follows:

<< AR ST § 22–9–208 >>

(3) The procedures provided in subdivision (a)(2) of this section should be applicable for specific projects only after review and approval by the Chief Fiscal Officer of the State, the Building Authority Division of the Department of Finance and Administration , **the Secretary of the Department of Transformation and Shared Services**, and the Legislative Council. Provided, however, projects undertaken by public institutions of higher education exempt from review and approval of the division shall not require review and approval by the Director of the Department of Finance and Administration **secretary**.

SECTION 6241. Arkansas Code § 22-9-209(d)(2), concerning the advertising of contracts, renovation of historic sites is amended to read as follows:

<< AR ST § 22-9-209 >>

(2) Provided further, nothing in this section shall prevent an institution of higher education exempt from review and approval of the Building Authority Division of the ~~Department of Finance and Administration~~ from entering into an agreement with the division to provide such advice.

SECTION 6242. Arkansas Code § 22-9-213 is amended to read as follows:

<< AR ST § 22-9-213 >>

22-9-213. Exemption of state projects from local regulation.

Public works construction projects conducted by the Building Authority Division of the ~~Department of Finance and Administration~~ or other state agencies are exempt from permit fees or inspection requirements of county or municipal ordinances.

SECTION 6243. Arkansas Code § 22-9-403(b)(2), concerning the limitation of an action and the statutory liability as an integral part of a bond, is amended to read as follows:

<< AR ST § 22-9-403 >>

(2) However, with respect to public works contracts where final approval for payment is given by the Building Authority Division of the ~~Department of Finance and Administration~~ or by an institution of higher education exempt from construction review and approval by the division, all persons, firms, associations, and corporations having valid claims against the bond may bring an action on the bond against the corporate surety, provided that no action shall be brought on the bond after twelve (12) months from the date on which the division or the public institution of higher education approves final payment on the state contract, nor shall any action be brought outside the State of Arkansas in accordance with § 18-44-503.

SECTION 6244. Arkansas Code § 22-10-201(a)(1), concerning the designation and duties of a responsible public entity, is amended to read as follows:

<< AR ST § 22-10-201 >>

(1) Seek the advice and consent of the ~~Arkansas Economic Development Commission~~ **Building Authority Division** and the Arkansas Development Finance Authority; and

SECTION 6245. The introductory language of Arkansas Code § 22-10-501(a), concerning review and approval of a proposed qualifying project, is amended to read as follows:

<< AR ST § 22-10-501 >>

(a) The ~~Arkansas Economic Development Commission~~ **Building Authority Division** shall:

SECTION 6246. Arkansas Code § 22–10–501(b)(1)(B)(i), concerning review and approval of a proposed qualifying project, is amended to read as follows:

<< AR ST § 22–10–501 >>

(B)(i) Submit the proposed interim agreement or comprehensive agreement to the ~~Chief Fiscal Officer of the State~~ **Secretary of the Department of Transformation and Shared Services** for approval.

SECTION 6247. Arkansas Code § 22–10–502(a), concerning the duties of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 22–10–502 >>

(a) The Arkansas Economic Development Commission **or the Building Authority Division** shall promulgate certain rules regarding the definitions and guidelines related to the development of qualifying projects under this chapter within ninety (90) days of August 1, 2017.

SECTION 6248. The introductory language of Arkansas Code § 22–10–503(a), concerning the rules of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 22–10–503 >>

(a) The Arkansas Economic Development Commission **or the Building Authority Division** and the Arkansas Development Finance Authority shall jointly promulgate rules to administer this chapter, including without limitation rules regarding:

SECTION 6249. Arkansas Code § 22–10–503(b), concerning the rules of the Arkansas Economic Development Commission, is amended to read as follows:

<< AR ST § 22–10–503 >>

(b) The commission **or division** and the authority may jointly promulgate rules that establish procurement guidelines and requirements that vary depending on the type of qualifying project.

SECTION 6250. Arkansas Code § 22–10–505(a), concerning monitoring and reporting audits, is amended to read as follows:

<< AR ST § 22–10–505 >>

(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 6251. The introductory language of Arkansas Code § 22–10–505(b), concerning monitoring and reporting audits, is amended to read as follows:

<< AR ST § 22–10–505 >>

(b) The ~~Arkansas Economic Development Commission~~ **Building Authority Division** shall:

SECTION 6252. Arkansas Code § 23-17-409(b)(4), concerning the authorization of competing local exchange carriers, is amended to read as follows:

<< AR ST § 23-17-409 >>

(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 6253. Arkansas Code § 23-46-202(b), concerning offices for the State Bank Department, is amended to read as follows:

<< AR ST § 23-46-202 >>

(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.

SECTION 6254. Arkansas Code § 25-1-203(b)(2), concerning the distribution of other publications, is amended to read as follows:

<< AR ST § 25-1-203 >>

(2) The ~~Department~~ **Division** of Information Systems shall assist those state agencies requesting assistance in placing publications on the state agency's website.

SECTION 6255. 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:

<< AR ST § 25-4-102 >>

(2) ~~Departmental resources~~ **Resources of the Division of Information Systems** are used unless an exception is authorized;

SECTION 6256. 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:

<< AR ST § 25-4-102 >>

(6) The ~~Department~~ **Division** of Information Systems complies with applicable state and federal statutory and regulatory provisions.

SECTION 6257. 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:

<< AR ST § 25-4-102 >>

(b) The General Assembly further declares its intent to create a state agency **division** to:

SECTION 6258. 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:

<< AR ST § 25-4-102 >>

(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 6259. 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:

<< AR ST § 25-4-102 >>

(2) The ~~department~~ **division** shall consider in the development of the ~~department~~ **division** plan and the Joint Committee on Advanced Communications and Information Technology shall emphasize in its recommendations and policies the availability in the private sector of information technology resources upon a competitive bid basis with a view to assuring the state of the highest reasonable quality of resources at the lowest reasonable cost.

SECTION 6260. Arkansas Code § 25-4-102(e), concerning legislative findings and a declaration of intent in regards to the Department of Information Systems, is amended to read as follows:

<< AR ST § 25-4-102 >>

(e)(1) In exercising its authority under § 25-4-105, the ~~department~~ **division** shall competitively procure information technology except as provided in this subsection.

(2) The ~~department~~ **division** is not authorized by § 25-4-105 to provide information technology services, including telecommunications and broadband services, to the general public, other than nongovernmental first responder entities, in competition with private sector telecommunications and cable communications providers.

(3) Customers of the ~~department~~ **division** are not authorized to use information technology facilities and services provided by the ~~department~~ **division** to provide telecommunications and broadband services to the general public in competition with private sector telecommunications and cable communications providers.

SECTION 6261. Arkansas Code § 25-4-103(2), concerning the definition of “Chief Technology Officer” under the Arkansas Information Systems Act of 1997, is amended to read as follows:

<< AR ST § 25-4-103 >>

(2) “Chief Technology Officer” means the Director of the ~~Department~~ **Division** of Information Systems;

SECTION 6262. Arkansas Code § 25–4–104 is amended to read as follows:

<< AR ST § 25–4–104 >>

25–4–104. Department Division of Information Systems.

- (a) There is established within the executive department of government **Department of Transformation and Shared Services** a Department **the Division** of Information Systems.
- (b)(1) The department **division** shall be headed by a director to be appointed by the Governor, subject to confirmation by the Senate in the manner provided by law, and shall serve at the pleasure of the Governor.
- (2) The director **Director of the Division of Information Systems** shall be a person who, by education and training, has technical knowledge and management experience in information technology-related equipment, systems, and services.
- (3) The director shall qualify by filing the oath of office required in the Arkansas Constitution with the Secretary of State.
- (c) The director, **in consultation with the Secretary of the Department of Transformation and Shared Services**, may establish divisions and the organizational structure deemed necessary and appropriate for the efficient performance of the duties imposed under the provisions of this chapter, provided the organizational structure of the department **division** shall conform to the positions authorized and limitations provided therefor in the biennial appropriation of the department **division**.
- (d) The director, **in consultation with the secretary**, shall appoint the deputy and division directors and the professional, technical, and clerical assistants and employees as necessary to perform the duties imposed by this chapter. All employees of the department **division** shall be employed by **the department** and serve at the pleasure of the director **secretary**.
- (e) The director shall report to the Governor **secretary** any matters relating to abuses of this chapter.
- (f) The director shall recommend statutory changes to the Governor **secretary**.

SECTION 6263. Arkansas Code § 25–4–105(a)(1), concerning the powers and duties of the Department of Information Systems, is amended to read as follows:

<< AR ST § 25–4–105 >>

- (a)(1) The Department **Division** of Information Systems shall be vested with all the powers and duties necessary to administer the department **division** and to enable it to carry out fully and effectively the regulations and laws relating to the department **division**.

SECTION 6264. The introductory language of Arkansas Code § 25–4–105(a)(2), concerning the powers and duties of the Department of Information Systems, is amended to read as follows:

<< AR ST § 25–4–105 >>

- (2) The department's **division's** powers and duties relate to information technology and include without limitation:

SECTION 6265. Arkansas Code § 25-4-105(a)(2)(E)(ii), concerning the powers and duties of the Department of Information Systems, is amended to read as follows:

<< AR ST § 25-4-105 >>

(ii) The ~~department~~ **division** shall have the authority to adjust billing as necessary to effect compliance with applicable state and federal statutory and regulatory provisions.

SECTION 6266. Arkansas Code § 25-4-105(a)(2)(G) and (H), concerning the powers and duties of the Department of Information Systems, are amended to read as follows:

<< AR ST § 25-4-105 >>

(G) Promulgating rules that are necessary for efficient administration and enforcement of the powers, functions, and duties of the ~~department~~ **division** as provided in this chapter;

(H) Developing a ~~departmental~~ **division** plan to support the goals and objectives set forth for it in the state information technology plans and strategies;

SECTION 6267. Arkansas Code § 25-4-105(a)(2)(Q), concerning the powers and duties of the Department of Information Systems, is amended to read as follows:

<< AR ST § 25-4-105 >>

(Q) With respect to their technology functions and applications, all state departments, boards, commissions, and public institutions of higher education, consulting and cooperating with the ~~Department~~ **Division** of Information Systems in the formation and implementation of security policies for the state core information technology infrastructure;

SECTION 6268. Arkansas Code § 25-4-106(a)(1), concerning the reporting requirements of the Director of the Department of Information Systems, is amended to read as follows:

<< AR ST § 25-4-106 >>

(a)(1) The Director of the ~~Department~~ **Division** of Information Systems will report periodically to the Joint Committee on Advanced Communications and Information Technology regarding the status of the ~~Department~~ **Division** of Information Systems' information technology responsibilities in state government.

(2) The director may report any factors that are outside the scope of the ~~department~~ **division** but are deemed to inhibit or to promote the ~~department's~~ **division's** responsibilities.

SECTION 6269. Arkansas Code § 25-4-106(b)(2)(B), concerning the reporting requirements of the Director of the Department of Information Systems, is amended to read as follows:

<< AR ST § 25-4-106 >>

(B) Provide a full report of all corresponding recommendations made by the department **division** to the requesting state agencies, boards, and commissions.

SECTION 6270. Arkansas Code § 25-4-108(a), concerning working groups of the Department of Information Systems, is amended to read as follows:

<< AR ST § 25-4-108 >>

(a) The Director of the Department **Division** of Information Systems may appoint working groups as necessary for specific purposes related to information technology coordination.

SECTION 6271. Arkansas Code § 25-4-109(a) and (b), concerning the authorization of the Department of Informations Systems to establish, maintain, and operator information technology centers, are amended to read as follows:

<< AR ST § 25-4-109 >>

(a) The Department **Division** of Information Systems is authorized to establish, maintain, and operate information technology centers and, in connection therewith, to rent, purchase, install, operate, and maintain information technology for state agencies as authorized in this chapter.

(b) The department **division** is authorized to enter into contracts or agreements with state agencies for the purpose of providing information technology.

SECTION 6272. Arkansas Code § 25-4-109(e) and (f), concerning the authorization of the Department of Informations Systems to establish, maintain, and operator information technology centers, is amended to read as follows:

<< AR ST § 25-4-109 >>

(e) The department **division** is authorized to enter into agreements and contracts with public utilities for telecommunications service.

(f) The information technology centers operated by the department **division** shall be made available to all state agencies which fall within economical and feasible boundaries.

SECTION 6273. Arkansas Code § 25-4-110(a), concerning information technology and a biennial information technology plan, is amended to read as follows:

<< AR ST § 25-4-110 >>

(a) The Department **Division** of Information Systems shall submit status reports annually or when requested to the Joint Committee on Advanced Communications and Information Technology.

SECTION 6274. The introductory language of Arkansas Code § 25–4–110(c), concerning information technology and a biennial information technology plan, is amended to read as follows:

<< AR ST § 25–4–110 >>

(c) The ~~Department~~ **Division** of Information Systems shall distribute criteria, elements, form, and format for agency plans. Plans may include, but not be limited to, the following:

SECTION 6275. Arkansas Code § 25–4–110(d)(1) and (2), concerning information technology and a biennial information technology plan, are amended to read as follows:

<< AR ST § 25–4–110 >>

(d)(1) Plans developed or updated shall be submitted to the ~~Department~~ **Division** of Information Systems.

(2) The ~~department~~ **division** may reject, require modification to, or approve plans as deemed appropriate.

SECTION 6276. The introductory language of Arkansas Code § 25–4–111(b), concerning prerequisites to acquire information technology, is amended to read as follows:

<< AR ST § 25–4–111 >>

(b) If an agency desires to acquire information technology not part of an information technology plan approved under § 25–4–110, the requesting agency shall submit a waiver request to the Director of the ~~Department~~ **Division** of Information Systems that includes:

SECTION 6277. Arkansas Code § 25–4–111(c), concerning prerequisites to acquire information technology, is amended to read as follows:

<< AR ST § 25–4–111 >>

(c)(1) Upon evaluation of the waiver request, the ~~Director of the Department of Information Systems~~ **director** shall notify the agency in writing of his or her approval or rejection of the request and his or her reasons.

(2) The ~~Director of the Department of Information Systems~~ **director** shall make his or her evaluation in a timely manner. If the ~~Director of the Department of Information Systems~~ **director** requires more than thirty (30) days to complete the evaluation, he or she shall report in writing to the Governor **and the Secretary of the Department of Transformation and Shared Services** his or her reasons for the delay in completion.

(3) If the ~~Director of the Department of Information Systems~~ **director** rejects a request for a waiver, a state agency shall not make any expenditure of public funds for the acquisition or expansion of information technology equipment or services.

(4) If the ~~Director of the Department of Information Systems~~ **director** determines that the agency needs additional information technology resources, he or she may:

(A) Authorize the agency to acquire the requested information technology in accordance with the state enterprise architecture;

- (B) Authorize acquisition of a modified information technology configuration;
- (C) Notify the agency of the availability of ~~Department~~ **Division** of Information Systems facilities to provide the requested information technology; or
- (D) Recommend that the information technology be provided through the facilities of some other designated state agency.

SECTION 6278. Arkansas Code § 25–4–112(b), concerning the application of the chapter to an educational institution, is amended to read as follows:

<< AR ST § 25–4–112 >>

(b)(1) A state-supported institution of higher education, a post-secondary vocational-technical school, an area vocational school, or a public school district may request technical assistance regarding information technology from the ~~Department~~ **Division** of Information Systems.

(2)(A) Assistance shall be provided by the ~~department~~ **division** free of charge within a reasonable period.

(B) However, the requesting institution shall reimburse the ~~department~~ **division** for any actual expenses incurred while providing requested technical assistance.

SECTION 6279. Arkansas Code § 25–4–114(b), concerning contracts and agreements for information technology, is amended to read as follows:

<< AR ST § 25–4–114 >>

(b) A state agency shall submit to the Director of the ~~Department~~ **Division** of Information Systems for review and approval a request for the state agency to enter into a technology contract or agreement that is not in compliance with the state enterprise architecture.

SECTION 6280. Arkansas Code § 25–4–115 is amended to read as follows:

<< AR ST § 25–4–115 >>

25–4–115. Professional services contracts between ~~department~~ **division and outside vendors.**

(a)(1) In the event that, due to unforeseen circumstances, the ~~Department~~ **Division** of Information Systems cannot provide sufficient information technology support to state agencies, the Director of the ~~Department~~ **Division** of Information Systems is authorized to enter into professional services contracts for the necessary information technology support.

(2) The ~~department~~ **division** may also consolidate information technology needs to satisfy agency requests.

(b)(1) The ~~department~~ **division** may utilize moneys appropriated for maintenance, operation, and payment of regular salaries of the ~~department~~ **division** for the purchase of professional services upon approval thereof by the Chief Fiscal Officer of the State.

(2)(A) Provided, however, that before approving the use of moneys appropriated for payment of regular salaries of the ~~department~~ **division** for obtaining professional services, the Chief Fiscal Officer of the State shall determine that

resignations, vacancies in positions, or the inability to employ persons with technical skills to provide the services has necessitated that action.

(B) In addition, the Chief Fiscal Officer of the State shall obtain the advice of the Legislative Council before approving any transfer of regular salary appropriations to the maintenance and operation appropriation of the agency to be used for payment of professional services.

SECTION 6281. Arkansas Code § 25–4–116(a), concerning payments for information technology, is amended to read as follows:

<< AR ST § 25–4–116 >>

(a) Before a state agency may enter into an agreement with the ~~Department~~ **Division** of Information Systems for purchase of information technology, the agency shall certify that adequate appropriations and funds are available for purchasing information technology from the ~~department~~ **division**.

SECTION 6282. Arkansas Code § 25–4–116(b)(3), concerning payments for information technology, is amended to read as follows:

<< AR ST § 25–4–116 >>

(3) The transfers authorized in this chapter shall be made from time to time within the amounts authorized in the procedures set forth in this chapter, upon payment for information technology purchased from the ~~department~~ **division**.

SECTION 6283. Arkansas Code § 25–4–117 is amended to read as follows:

<< AR ST § 25–4–117 >>

25–4–117. Delinquent accounts.

(a) For accounts that are thirty (30) days overdue and have no charges contested by the user, the ~~Department~~ **Division** of Information Systems may request the Chief Fiscal Officer of the State to transfer all or part of the overdue amount from the user's account to the ~~department's~~ **division's** revolving account. The Chief Fiscal Officer of the State shall transfer the amount within ten (10) working days.

(b) For accounts that are sixty (60) days overdue and have charges being contested by the user, the ~~department~~ **division** may request the Chief Fiscal Officer of the State to transfer all or part of the overdue amount from the user's account to the ~~department's~~ **division's** revolving account. If the resolution of contested charges favors the user, the user may request the Chief Fiscal Officer of the State to transfer all or part of the overdue amount from the ~~department's~~ **division's** revolving account to the user's account.

(c) The ~~department~~ **division** is authorized to discontinue information technology service to users who do not make a timely remittance of payment for services rendered and is specifically prohibited from providing services to state agencies lacking funds or sufficient appropriations to pay for the services.

SECTION 6284. Arkansas Code § 25–4–119(a) and (b), concerning budget procedures for the Department of Information Systems, are amended to read as follows:

<< AR ST § 25-4-119 >>

(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 shall be effected.

(B) Rates shall be reviewed by the ~~department~~ **division** on no less than an annual basis in order to ensure compliance with state and federal statutory and regulatory provisions.

SECTION 6285. Arkansas Code § 25-4-120(c), concerning revisions to state agencies' budgets, purchasing, and personnel process, is amended to read as follows:

<< AR ST § 25-4-120 >>

(c) The ~~Department~~ **Division** of Information Systems shall make recommendations regarding revisions to the state budget, purchasing, and personnel process related to information technology to the Legislative Council by March 1 of each even-numbered year.

SECTION 6286. Arkansas Code § 25-4-121 is amended to read as follows:

<< AR ST § 25-4-121 >>

25-4-121. Department Division of Information Systems Revolving Fund.

(a) There is created and established on the books of the Treasurer of State, the Auditor of State, and the Department of Finance and Administration and the ~~Department~~ **Division** of Information Systems Revolving Fund.

(b) The fund shall consist of nonrevenue receipts derived from services provided to various agencies of the federal, state, city, and county governments, and any other moneys which may be provided by law for credit to the fund.

(c) All revenues received by the ~~Department~~ **Division** of Information Systems for providing information technology services shall be deposited in the State Treasury as nonrevenue receipts, there to be used for the maintenance, operation, and improvement of the ~~department~~ **division**.

(d) All revenues received from agencies or other governmental entities for information technology services provided by contracts between the ~~Department of Information Systems~~ **division** and outside vendors may be deposited in the State Treasury as refund to expenditures.

(e) Subject to the written approval of the Chief Fiscal Officer of the State upon written application of the ~~Department of Information Systems~~ **division** and review by the Legislative Council, the Director of the ~~Department~~ **Division** of Information Systems shall have the authority to transfer funds between the Information Technology Reserve Fund established by §§ 19-5-1056 and 25-4-123 and the ~~Department~~ **Division** of Information Systems Revolving Fund established under this section for cash management purposes.

SECTION 6287. Arkansas Code § 25-4-122(a), concerning a reserve of funds for equipment acquisition and loans by the Department of Information Systems, is amended to read as follows:

<< AR ST § 25-4-122 >>

(a)(1) The ~~Department~~ **Division** of Information Systems is authorized to accumulate a reserve for equipment acquisition in an amount not to exceed the ~~department's~~ **division's** depreciation expense per fiscal year.

(2)(A) In addition, the ~~department~~ **division** is authorized to obtain from the State Board of Finance loans from the Budget Stabilization Trust Fund to supplement the reserve if the reserve is insufficient to handle the total cost of required equipment acquisitions.

(B) These loans and the reserve for equipment acquisition shall be used exclusively for major equipment acquisitions or improvements of information technology required in order to fulfill the requirements for one (1) or more user agencies.

(C) The loans from the Budget Stabilization Trust Fund to the Information Technology Reserve Fund shall be repaid within five (5) years from revenues derived from charges to users, and the annual loan repayment amount shall be computed as a part of the total yearly expenses of the ~~department~~ **division** and shall be charged proportionately to users.

SECTION 6288. Arkansas Code § 25-4-122(b)(1)(A), concerning a reserve of funds for equipment acquisition and loans by the Department of Information Systems, is amended to read as follows:

<< AR ST § 25-4-122 >>

(b)(1)(A) However, before the board approves any requests for loans by the ~~department~~ **division** authorized in subdivision (a)(2) of this section, the requests shall be submitted to the Governor for his or her approval after the Governor has first obtained the advice of the Legislative Council in regard thereto.

SECTION 6289. Arkansas Code § 25-4-122(b)(3), concerning a reserve of funds for equipment acquisition and loans by the Department of Information Systems, is amended to read as follows:

<< AR ST § 25-4-122 >>

(3) After obtaining the Governor's approval in writing, the board shall also review and may approve the loans and establish terms of repayment and a rate of interest to be paid by the ~~Department~~ **Division** of Information Systems Revolving Fund to the Budget Stabilization Trust Fund. The rate shall be approximately equivalent to the rate of interest the board is receiving on other investments at the time of approving the loan request.

SECTION 6290. Arkansas Code § 25-4-123(b), concerning the Information Technology Reserve Fund, is amended to read as follows:

<< AR ST § 25-4-123 >>

(b) This fund shall consist of those funds transferred from the ~~Department~~ **Division** of Information Systems Revolving Fund in an amount up to the authorized reserve for equipment acquisition as certified by the Chief Fiscal Officer of the State within thirty (30) days following the closing of each fiscal year, any loans which may be received from the Budget Stabilization Trust Fund, and any other moneys which may be provided by law, there to be used exclusively for major equipment acquisitions or improvements as set out in § 25-4-122.

SECTION 6291. Arkansas Code § 25-4-124 is amended to read as follows:

<< AR ST § 25-4-124 >>

25-4-124. Yearly computation of expenses — Disposition of surplus funds.

(a) Within sixty (60) days following the final closing entries for the consolidated annual financial report for each fiscal year, the Director of the ~~Department~~ **Division** of Information Systems shall obtain from the Chief Fiscal Officer of the State the written approval of a plan that shall include a proposed methodology to make all appropriate adjustments to effect compliance with state and federal statutory and regulatory provisions for the fiscal year.

(b)(1) If the plan under subsection (a) of this section requires appropriate credits or debits to customer accounts to effect compliance with state and federal statutory and regulatory provisions, the ~~Department~~ **Division** of Information Systems shall make any adjustments within sixty (60) days after approval of the plan.

(2) In the event that a customer no longer uses the services of the ~~department~~ **division**, a fund transfer in the amount of that customer's credits under the plan described in subsection (a) of this section shall be made from the ~~Department~~ **Division** of Information Systems Revolving Fund to the customer's treasury fund, upon certification of the amount by the director to the Chief Fiscal Officer of the State and the Treasurer of State. In the event the customer does not have a treasury fund, a warrant shall be issued by the ~~department~~ **division** in payment of the customer's credit.

(c) In the event that the customer has an unpaid account balance due the ~~department~~ **division**, the customer's credit shall be withheld until the account balance is satisfied.

SECTION 6292. Arkansas Code § 25-4-125(a), concerning the State Broadband Manager, is amended to read as follows:

<< AR ST § 25-4-125 >>

(a) The Director of the ~~Department~~ **Division** of Information Systems is designated the State Broadband Manager.

SECTION 6293. Arkansas Code § 25-4-125(b)(1)(A), concerning the State Broadband Manager, is amended to read as follows:

<< AR ST § 25-4-125 >>

(A) State agencies, boards, commissions, and constitutional officers, including without limitation the Governor, ~~Department~~ **the Division** of Education, ~~Department~~ **the Division** of Higher Education, and ~~the~~ Arkansas Department of Transportation;

SECTION 6294. Arkansas Code § 25-4-126(a), concerning the Chief Data Officer and the Chief Privacy Officer, is amended to read as follows:

<< AR ST § 25-4-126 >>

(a)(1) The Director of the ~~Department~~ **Division** of Information Systems shall select an individual to serve as the Chief Data Officer of the ~~Department~~ **Division** of Information Systems and the Chief Privacy Officer of the ~~Department~~ **Division** of Information Systems.

(2) The Chief Data Officer of the ~~Department~~ **Division** of Information Systems and the Chief Privacy Officer of the ~~Department~~ **Division** of Information Systems shall not be the same person.

SECTION 6295. The introductory language of Arkansas Code § 25-4-126(b), concerning the Chief Data Officer and Chief Privacy Officer, is amended to read as follows:

<< AR ST § 25-4-126 >>

(b) The Chief Data Officer of the ~~Department~~ **Division** of Information Systems shall:

SECTION 6296. The introductory language of Arkansas Code § 25-4-126(c), concerning the Chief Data Officer and Chief Privacy Officer, is amended to read as follows:

<< AR ST § 25-4-126 >>

(c) The Chief Privacy Officer of the ~~Department~~ **Division** of Information Systems shall:

SECTION 6297. Arkansas Code § 25-4-127(a), concerning the creation and duties of the Data and Transparency Panel, is amended to read as follows:

<< AR ST § 25-4-127 >>

(a) The Data and Transparency Panel is created within the ~~Department~~ **Division** of Information Systems.

SECTION 6298. Arkansas Code § 25-4-127(b)(3)-(5), concerning the creation and duties of the Data and Transparency Panel, are amended to read as follows:

<< AR ST § 25-4-127 >>

(3) The **secretaries**, directors, or their designees, of the following **departments** **entities**:

- (A) The Arkansas Crime Information Center;
- (B) The ~~Department~~ **Division** of Arkansas State Police;
- (C) The ~~Department~~ **Division** of Career **and Technical** Education;
- (D) The ~~Department~~ **Division** of Community Correction;
- (E) The ~~Department~~ **Division** of Correction;
- (F) The ~~Department~~ **Division** of **Elementary and Secondary** Education;
- (G) The Department of Finance and Administration;
- (H) The Department of Health;
- (I) The ~~Department~~ **Division** of Higher Education;
- (J) The Department of Human Services;
- (K) The ~~Department~~ **Division** of Information Systems; and
- (L) The Department of Labor **and Licensing**;

(4)(A) The Chief Data Officer of the ~~Department~~ **Division** of Information Systems.

(B) The Chief Data Officer of the ~~Department~~ **Division** of Information Systems shall be the Chair of the Data and Transparency Panel.

(C) The members of the panel shall select a vice chair annually; and

(5) The Chief Privacy Officer of the ~~Department~~ **Division** of Information Systems.

SECTION 6299. Arkansas Code § 25-4-127(c)(5), concerning the creation and duties of the Data and Transparency Panel, are amended to read as follows:

<< AR ST § 25-4-127 >>

(5) Evaluate and identify data that may be provided to the public in accordance with data standards and specifications developed by the ~~Department~~ **Division** of Information Systems; and

SECTION 6300. Arkansas Code § 25-4-128(a), concerning the confidentiality of records of the Data and Transparency Panel, is amended to read as follows:

<< AR ST § 25-4-128 >>

(a) All records, reports, and other information obtained by the Data and Transparency Panel shall be confidential unless approved for publication in accordance with data standards and specifications developed by the ~~Department~~ **Division** of Information Systems.

SECTION 6301. Arkansas Code § 25–8–103 is repealed.

<< Repealed: AR ST § 25–8–103 >>

~~25–8–103. Office of Personnel Management — State Personnel Administrator.~~

~~(a) There is created the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration.~~

~~(b)(1) The Director of the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration shall be known as the State Personnel Administrator, and he or she shall be employed by the Director of the Department of Finance and Administration with the advice and consent of the Governor.~~

~~(2) The Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration shall be under the overall direction, control, and supervision of the Director of the Department of Finance and Administration.~~

SECTION 6302. Arkansas Code § 25–8–107(c), concerning the Office of Child Support Enforcement, is amended to read as follows:

<< AR ST § 25–8–107 >>

(c) The Department of Human Services and the ~~Department~~ **Division** of Information Systems shall grant access to and provide information determined by the Office of Child Support Enforcement to be necessary to successfully accomplish its mission.

SECTION 6303. Arkansas Code § 25–10–138 is amended to read as follows:

<< AR ST § 25–10–138 >>

25–10–138. Education requirements for certain Division of Youth Services employees.

(a) With the assistance of the Office of Personnel Management ~~of the Division of Management Services of the Department of Finance and Administration~~, the Division of Youth Services ~~of the Department of Human Services~~ shall promulgate regulations to increase the education requirements for youth service workers and security officers employed by the ~~Division of Youth Services~~ **division**. If the services are under contract with the ~~Division of Youth Services~~ **division**, the employees of the contractor shall meet the education requirements promulgated by the ~~Division of Youth Services~~ **division**.

(b) No regulation pertaining to education requirements for youth service workers or security officers promulgated hereafter by the ~~Division of Youth Services~~ **division** shall be effective until reviewed by the Legislative Council, the House Committee on Aging, Children and Youth, Legislative and Military Affairs, and the Senate Interim Committee on Children and Youth or appropriate subcommittees thereof of the General Assembly.

SECTION 6304. The introductory language of Arkansas Code § 25–16–1006(a), concerning the administration and enforcement of rules of the Office of Personnel Management, is amended to read as follows:

<< AR ST § 25–16–1006 >>

(a) The Office of Personnel Management of the ~~Division of Management Services of the Department of Finance and Administration~~ shall establish rules and forms for all state agencies that will enable each public official and each supervisory employee within a state agency to determine whether:

SECTION 6305. Arkansas Code § 25–18–702(a)(1), concerning the standards and policies of the Director of the Department of Information Systems, is amended to read as follows:

<< AR ST § 25–18–702 >>

(a)(1) The Director of the ~~Department~~ **Division** of Information Systems shall establish standards and polices governing the use, management, retention, privacy, and security of electronic records of state agencies.

SECTION 6306. Arkansas Code § 25–18–702(c), concerning the standards and policies of the Director of the Department of Information Systems, is amended to read as follows:

<< AR ST § 25–18–702 >>

(c) The Director of the ~~Department~~ **Division** of Information Systems shall make a monthly report to the Joint Committee on Advanced Communications and Information Technology regarding the status of the development of the standards and policies described in this section.

SECTION 6307. Arkansas Code § 25–18–703 is amended to read as follows:

<< AR ST § 25–18–703 >>

25–18–703. State agency standards and policies.

A state agency may use the standards and policies developed by the Director of the ~~Department~~ **Division** of Information Systems under § 25–18–702, or it may develop its own standards and policies consistent with the requirements established in § 25–18–702(b).

SECTION 6308. Arkansas Code § 25–26–204(a)(1), concerning procurement requirements, is amended to read as follows:

<< AR ST § 25–26–204 >>

(a)(1) The technology access clause specified in § 25–26–203 shall be developed by the ~~Department~~ **Division** of Information Systems and shall require compliance with nonvisual access standards established by the ~~department~~ **division**.

SECTION 6309. The introductory language of Arkansas Code § 25–26–204(b), concerning procurement requirements, is amended to read as follows:

<< AR ST § 25-26-204 >>

(b) The nonvisual access standards established by the ~~department~~ **division** under subsection (a) of this section shall:

SECTION 6310. Arkansas Code § 25-27-103(a)(1), concerning the board of the Information Network of Arkansas, is amended to read as follows:

<< AR ST § 25-27-103 >>

(1) The ~~Executive~~ Director of the Arkansas Economic Development Commission or his or her designee;

SECTION 6311. Arkansas Code § 25-27-103(a)(3) and (4), concerning the creation of the board of the Information Network of Arkansas, are amended to read as follows:

<< AR ST § 25-27-103 >>

(3) The ~~Director~~ **Secretary** of the Department of Finance and Administration, or the ~~director's~~ **his or her** designee;

(4) Two (2) members, or their designees, who are chief executive officers of agencies of the executive branch other than the Department of Finance and Administration and the ~~Department~~ **Division** of Information Systems, shall be appointed by the Governor;

SECTION 6312. Arkansas Code § 25-27-103(a)(8), concerning the board of the Information Network of Arkansas, is amended to read as follows:

<< AR ST § 25-27-103 >>

(8) The Director of the ~~Department~~ **Division** of Information Systems, or the director's designee.

SECTION 6313. Arkansas Code § 25-27-104(a)(1), concerning duties of the Information Network of Arkansas, is amended to read as follows:

<< AR ST § 25-27-104 >>

(1) To develop and implement an electronic gateway system to provide electronic access to members of the public to public information and to develop, implement, and promote the use of electronic commerce and digital signature applications within the state in cooperation with the ~~Department~~ **Division** of Information Systems;

SECTION 6314. Arkansas Code § 25-27-104(a)(7), concerning duties of the Information Network of Arkansas, is amended to read as follows:

<< AR ST § 25-27-104 >>

(7) To serve in an advisory capacity to the Department of Finance and Administration, the ~~Department~~ **Division** of Information Systems, and other state agencies regarding the dissemination to and collection of state data for the citizens and businesses of Arkansas;

SECTION 6315. Arkansas Code § 25-27-104(b)(4), concerning duties of the Information Network of Arkansas, is amended to read as follows:

<< AR ST § 25-27-104 >>

(4) The Information Network of Arkansas shall cooperate with the ~~Department of Information Systems~~ **division** to fulfill the purposes of the Arkansas Information Systems Act of 1997, § 25-4-101 et seq.

SECTION 6316. Arkansas Code § 25-27-105(a)(1), concerning a contract with a network manager, is amended to read as follows:

<< AR ST § 25-27-105 >>

(a)(1) The Information Network of Arkansas shall **may** contract with a network manager and shall use a competitive bid process after developing, in consultation with the ~~Department~~ **Division** of Information Systems, criteria and specifications for such a network manager and his or her duties.

SECTION 6317. Arkansas Code § 25-27-105(c), concerning a contract with a network manager, is amended to read as follows:

<< AR ST § 25-27-105 >>

(c) The ~~Department of Information Systems~~ **division** may provide to the Information Network of Arkansas such staff and other assistance under contract.

SECTION 6318. Arkansas Code § 25-32-117(b), concerning the creation and retention of electronic records and conversion of written records by governmental agencies, is amended to read as follows:

<< AR ST § 25-32-117 >>

(b) Each state agency shall comply with applicable standards and policies adopted or established by the ~~Department of Finance and Administration~~ **Transformation and Shared Services** with advice and review from the ~~Department~~ **Division** of Information Systems to determine whether and the extent to which it will retain and convert written records to electronic records.

SECTION 6319. Arkansas Code § 25-32-118(a)(2), concerning acceptance and distribution of electronic records by governmental agencies, is amended to read as follows:

<< AR ST § 25-32-118 >>

(2) For state agencies, the determinations shall be consistent with applicable standards and policies adopted or established by the ~~Department of Finance and Administration~~ **Transformation and Shared Services** with advice and review from the ~~Department~~ **Division** of Information Systems.

SECTION 6320. Arkansas Code § 25-33-101(a)(1) and (2), concerning the creation of the State Technology Council, are amended to read as follows:

<< AR ST § 25-33-101 >>

(1) The Director of the ~~Department~~ **Division** of Information Systems or his or her designee who shall act as chair of the council;

(2) The ~~Director of the Department of Finance and Administration~~ **Secretary of the Department of Transformation and Shared Services** or his or her designee;

SECTION 6321. Arkansas Code § 25-34-104(a)(1), concerning agency policy, is amended to read as follows:

<< AR ST § 25-34-104 >>

(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 6322. Arkansas Code § 25-34-104(b), concerning agency policy, is amended to read as follows:

<< AR ST § 25-34-104 >>

(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 6323. Arkansas Code § 27-14-1708(b)(1), concerning the temporary tag database, is amended to read as follows:

<< AR ST § 27-14-1708 >>

(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 6324. Arkansas Code § 27-14-1708(c), concerning the temporary tag database, is amended to read as follows:

<< AR ST § 27-14-1708 >>

(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 6325. The introductory language of Arkansas Code § 27-14-1708(d)(1), concerning the temporary tag database, is amended to read as follows:

<< AR ST § 27-14-1708 >>

(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:

SECTION 6326. Arkansas Code § 27–14–1708(e), concerning the temporary tag database, is amended to read as follows:

<< AR ST § 27–14–1708 >>

(e) The ~~division~~ **Revenue Division of the Department of Finance and Administration** or the reporting company shall not be liable for any damages to any property or person due to any act or omission in the reporting or keeping of any record or information contained in the vehicle temporary tag database or the issuing or renewing of any motor vehicle registration in accordance with the vehicle temporary tag database.

SECTION 6327. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 16 — Department of Veterans Affairs

<< AR ST § 25–43–1601 >>

25–43–1601. Department of Veterans Affairs — Creation.

There is created the Department of Veterans Affairs as a cabinet-level department.

<< AR ST § 25–43–1602 >>

25–43–1602. State entities transferred to the Department of Veterans Affairs.

(a) The administrative functions of the following state entities are transferred to the Department of Veterans Affairs pursuant to a cabinet-level department transfer:

- (1) The Arkansas Veterans' Child Welfare Service, created under § 20–81–101;**
- (2) The Arkansas Veterans' Commission, created under § 20–81–104;**
- (3) The county veterans' service officer programs, created under § 20–81–106;**
- (4) The Department of Veterans Affairs, created under § 20–81–102;**
- (5) The state veterans' cemetery system, created under § 20–81–112; and**
- (6) The veterans' homes, established under § 20–81–105.**

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

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

<< AR ST § 25–43–1603 >>

25–43–1603. Powers and duties of the Department of Veterans Affairs.

(a) The Department of Veterans Affairs shall:

- (1) Supervise the operation of the veterans' homes under § 20–81–105;
 - (2) Supervise the activities, training, and testing of the county veterans' service officers located throughout the State of Arkansas; and
 - (3) Perform all administrative functions for the state entities under the administration of the department.
- (b) The department is authorized to develop and promulgate all rules necessary for the enforcement and implementation of the provisions of this act and all applicable federal rules and regulations.

<< AR ST § 25–43–1604 >>

25–43–1604. Secretary of the Department of Veterans Affairs.

- (a) The executive head of the Department of Veterans Affairs shall be the Secretary of the Department of Veterans Affairs.
- (b) The secretary shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.
- (c) Each division of the department shall be under the direction, control, and supervision of the secretary.
- (d) The secretary may delegate his or her functions, powers, and duties to various divisions or employees of the department as he or she shall deem desirable and necessary for the effective and efficient operation of the department.
- (e) The secretary may, unless otherwise provided by law:
 - (1) Hire department personnel;
 - (2) Perform or assign duties assigned to the department; and
 - (3) Serve as the director, or the administrative or executive head of any state entity under the administrative control of the department if the secretary also meets all statutory requirements for the position.
- (f) The Governor may appoint a qualified Secretary of the Department of Veterans Affairs who has:
 - (1) Served in the United States Armed Forces during a period of conflict as defined by the United States Congress;
 - (2) Been honorably discharged from the United States Armed Forces; and
 - (3) Been a resident of the State of Arkansas for two (2) or more years preceding his or her appointment.
- (g) The secretary shall promote and supervise the dissemination of available information concerning the rights of veterans and their dependents.
- (h) The secretary may establish, maintain, and operate district offices within the State of Arkansas as may be necessary.
- (i) The secretary may employ other employees, full-time or part-time, as may be determined necessary, within the limits of the funds appropriated for that purpose.
- (j)(1) An employee under the supervision of the department shall not accept, receive, or charge any money, article, or thing of value for the performance of any service rendered to any veteran or his or her dependents at any time or in any manner.

(2) Any person who violates the provisions of this subsection is guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or imprisoned not less than thirty (30) days nor more than six (6) months, or both.

<< AR ST § 25-43-1605 >>

25-43-1605. Veterans service officers.

(a) The Secretary of the Department of Veterans Affairs may employ veterans service officers, full-time or part-time, as may be determined necessary, within the limits of the funds appropriated for that purpose.

(b)(1) A veterans service officer shall have served in the United States Armed Forces and shall have been honorably discharged from the United States Armed Forces.

(2) All veterans service officers of the Department of Veterans Affairs shall have knowledge of all laws, both federal and state, relating to the rights and benefits of all veterans and their dependents and shall aid and assist all veterans and their dependents in securing their rights and benefits.

SECTION 6328. Arkansas Code § 11-15-105 is amended to read as follows:

<< AR ST § 11-15-105 >>

11-15-105. Verification of eligibility.

The Department of Veterans Affairs and the ~~Department~~ **Division** of Workforce Services shall assist a private employer or a local government employer in determining if an applicant or employee is a veteran, spouse of a disabled veteran, or surviving spouse of a veteran.

SECTION 6329. Arkansas Code § 20-81-101(a), concerning the Arkansas Veterans' Child Welfare Service, is amended to read as follows:

<< AR ST § 20-81-101 >>

(a)(1) There is established the Arkansas Veterans' Child Welfare Service.

(2) The Arkansas Veterans' Child Welfare Service shall be under the direction of a director to be named by the Governor upon written recommendation by the governing body of the ~~American Legion Department of Arkansas~~ **American Legion — Department of Arkansas Foundation, Inc.**

(3) The Director of the Arkansas Veterans' Child Welfare Service shall serve at the pleasure of the Governor.

(4) The director shall report to the Secretary of the Department of Veterans Affairs.

SECTION 6330. Arkansas Code § 20-81-102 is repealed.

<< Repealed: AR ST § 20-81-102 >>

~~20-81-102. Department of Veterans Affairs — Creation — Powers and duties.~~

~~(a) There is created the Department of Veterans Affairs.~~

(b) The department shall:

(1) Supervise the operation of the Veterans' Home; and

(2) Supervise the activities, training, and testing of the County Veterans' Service officers located throughout the State of Arkansas.

(c) The department is authorized to develop and promulgate all rules and regulations necessary for the enforcement and implementation of the provisions of this act and all applicable federal rules and regulations.

SECTION 6331. Arkansas Code § 20-81-103 is repealed.

<< Repealed: AR ST § 20-81-103 >>

~~20-81-103. Department of Veterans Affairs—Appointment of director—Employees.~~

~~(a) The Governor is authorized to appoint a qualified Director of the Department of Veterans Affairs who shall have served in the United States Armed Forces during armed conflict as set forth by the United States Congress, who has been honorably discharged therefrom, and who shall have been a resident of the State of Arkansas for two (2) years preceding his or her appointment.~~

~~(b) The director shall promote and supervise the dissemination of all available information concerning the rights of all veterans and their dependents.~~

~~(c) The director may establish, maintain, and operate district offices within the State of Arkansas as may be necessary.~~

~~(d) The director is authorized to employ an assistant director and such other employees, full-time or part-time, as may be determined necessary, subject to approval of the Governor and within the limits of the funds appropriated therefor.~~

~~(e)(1) A veterans' claims specialist shall have served in the United States Armed Forces and shall have been honorably discharged therefrom.~~

~~(2) All veterans' claims specialists of the Department of Veterans Affairs shall familiarize themselves with all laws, both federal and state, relating to rights and benefits of all veterans and their dependents and shall aid and assist all veterans and their dependents in securing their rights and benefits.~~

~~(f)(1) All employees under the supervision of the department shall not for themselves accept, receive, or charge any money, article, or thing of value for the performing of any service rendered to any veteran or his or her dependents at any time or in any manner.~~

~~(2) Any person who shall violate the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500), or imprisoned not less than thirty (30) days nor more than six (6) months, or both.~~

SECTION 6332. Arkansas Code § 20-81-104(a)(1), concerning the Arkansas Veterans' Commission, is amended to read as follows:

<< AR ST § 20-81-104 >>

(1) Serve as the advisory body for the Director **Secretary** of the Department of Veterans Affairs;

SECTION 6333. Arkansas Code § 20-81-104(c), concerning the Arkansas Veterans' Commission, is amended to read as follows:

<< AR ST § 20-81-104 >>

(c) The Arkansas Veterans' Commission shall make recommendations to the ~~director~~ **secretary** for the operation and improvement of the efficiency of the ~~Veterans' Home~~ **veterans' homes** established under § 20-81-105 and a **the** state veterans' cemetery **system** established under § 20-81-112.

SECTION 6334. Arkansas Code § 20-81-105 is amended to read as follows:

<< AR ST § 20-81-105 >>

20-81-105. Veterans' Home homes.

(a) The Department of Veterans Affairs is authorized to establish and maintain a **one (1) or more** ~~Veterans' Home~~ **veterans' homes** at a ~~location~~ **locations** selected by the ~~Director~~ **Secretary** of the Department of Veterans Affairs, after seeking advice from the Arkansas Veterans' Commission, and the ~~Arkansas Veterans' Home Task Force~~ [abolished] .

(b) The department is authorized to employ staff to operate the ~~home~~ **the veterans' homes** as it deems appropriate and as authorized by biennial appropriation.

(c)(1) The **Each veterans'** home shall be operated under the supervision of the department.

(2) The ~~director~~ **secretary** shall be the administrative head of the ~~home~~ **veterans' homes**.

(3) The secretary may delegate the administration of each veterans' home to an employee of the Department of Veterans Affairs.

(d)(1) The department shall promulgate appropriate guidelines for determining eligibility of veterans for admission to the **a veterans'** home and the monetary charges to be made for veterans residing in the **a veterans'** home. All guidelines shall conform to the federal requirements to qualify the ~~home~~ **veterans' homes** as a ~~nursing home~~ **nursing homes** for veterans and to render the ~~home~~ **veterans' homes** eligible to receive federal financial assistance.

(2)(A) Notwithstanding the provisions of § 20-8-101 et seq., the ~~home~~ **veterans' homes** may be used as a ~~nursing home~~ **nursing homes** for veterans without obtaining a certificate of need.

(B) Bed capacity shall not exceed ~~one hundred fifty (150)~~ **two hundred twenty (220)** beds.

(e) In the administration of the ~~home~~ **veterans' homes**, the ~~director~~ **secretary** is authorized to do the following:

(1) Establish accounts to record the receipt and disbursement of funds from resident veterans to pay for a portion of their maintenance at the ~~home~~ **a veterans' home**;

(2) Develop policies for determining charges to be made to resident veterans;

(3) Develop accounts and procedures pertaining to incompetent residents;

(4) Establish procedures and accounts for payment by the ~~home~~ **a veteran's home** to its residents for work performed at the **veterans'** home;

- (5) Establish such other accounts as are necessary to the orderly administration of the ~~home~~ **veterans' homes**; and
- (6) Establish policies necessary for the operation of the ~~home~~ **veterans' homes**.

(f) At the end of each fiscal year, the ~~director~~ **secretary** shall certify to the Chief Fiscal Officer of the State the amount of nonrevenues to be retained in the Miscellaneous Agencies Fund Account. All other moneys shall be transferred to the General Revenue Allotment Reserve Fund according to existing laws.

SECTION 6335. Arkansas Code § 20–81–107 is amended to read as follows:

<< AR ST § 20–81–107 >>

20–81–107. Gifts, volunteer services, etc.

(a) The ~~Director~~ **Secretary** of the Department of Veterans Affairs is authorized to arrange for and accept through such mutual arrangement as may be made the volunteer services, equipment, gifts, facilities, properties, supplies, and personnel of any state, county, and municipal offices and agencies and of veterans' fraternal, welfare, civic, and service organizations in the furtherance of the purposes of this act.

(b) The ~~director~~ **secretary** may accept on behalf of the Department of Veterans Affairs from any natural person or legal entity the donation of real property for use as a cemetery for the interment of Arkansas veterans of the United States Armed Forces and their immediate next of kin as defined by the department.

(c) The ~~director~~ **secretary** may accept on behalf of the department from any source the donation of gifts, grants, cash, bequeaths, real or personal property, and equipment for the establishment, construction, maintenance, and operations of any state-owned and operated ~~Veterans' Home~~ **state-operated veterans' home**.

SECTION 6336. Arkansas Code § 20–81–108(b), concerning actions by municipal governing bodies, is amended to read as follows:

<< AR ST § 20–81–108 >>

(b) All offices shall be under the supervision of the ~~Director~~ **Secretary** of the Department of Veterans Affairs, and all work of the offices shall be coordinated with the department.

SECTION 6337. Arkansas Code § 27–24–205 is amended to read as follows:

<< AR ST § 27–24–205 >>

27–24–205. Additional special license plates.

The ~~Director~~ **Secretary** of the Department of Finance and Administration shall examine the following factors to determine whether to create and issue additional special license plates under this subchapter:

- (1) Whether an application for the creation of an additional special license plate under this subchapter has been filed by either:
 - (A) The Adjutant General ~~for~~ **of** the State of Arkansas for a special license plate related to members of the National Guard and reserve components of the armed forces; or

(B) The ~~Director~~ **Secretary** of the Department of Veterans Affairs for a special license plate related to veterans or any other branch of the ~~armed forces of the~~ United States **Armed Forces**; and

(2) Whether there has been a recent armed conflict or war in which members of the United States Armed Forces, the National Guard, or the reserve components of the armed services have served.

SECTION 6338. Arkansas Code § 27–24–209(c)(2)(A), concerning the redesign and simplification of military service and veterans' special license plates, is amended to read as follows:

<< AR ST § 27–24–209 >>

(2)(A) The office is to seek the advice and input of the ~~Director~~ **Secretary** of the Department of Veterans Affairs and ~~The~~ **the** Adjutant General ~~for~~ **of** the State of Arkansas on the design of the branch decal.

SECTION 6339. Arkansas Code § 27–24–209(d)(3), concerning the redesign and simplification of military service and veterans' special license plates, is amended to read as follows:

<< AR ST § 27–24–209 >>

(3) The office is to seek the advice and input of the ~~director~~ **secretary** and ~~The~~ **the** Adjutant General ~~for~~ **of** the State of Arkansas on the design of the medal decal, which medal decals should be issued, and the *timing of the issuance of the medal decals*.

SECTION 6340. Arkansas Code § 12–29–309 is amended to read as follows:

<< AR ST § 12–29–309 >>

12–29–309. Riverside Vocational and Technical School — Facilities — Operations — Rules.

(a)(1) ~~The Career Education and Workforce Development Board~~ **Division of Correction and the Division of Community Correction** shall locate facilities and operate vocational or technical education or training programs within the Riverside Vocational ~~and~~ Technical School.

(2) *The operation of the school is subject to such special rules deemed appropriate for the operation of vocational or technical education or training programs at the correctional institutions under the control of the Department* **Division of Correction and the Department** **Division of Community Correction** in accordance with agreements and rules mutually developed and agreed to by the ~~Career Education and Workforce Development Board and~~ **Department of Education and the Board of Corrections**.

(b)(1) *The school shall be entitled to all funds, rights, and privileges and shall be operated in the same manner as other area vocational and technical schools are operated in this state.*

(2) *However, the school shall be operated in accordance with the rules for the operation of vocational or technical education or training programs at facilities of the Department* **Division of Correction and the Department** **Division of Community Correction** as provided in §§ 12–29–306 — 12–29–310.

SECTION 6341. DO NOT CODIFY. **Effect of transfer on retirement system membership and health insurance plan participation.**

(a) As used in this section, “retirement system” means:

(1) The Arkansas Teacher Retirement System, established by the Arkansas Teacher Retirement System Act, § 24–7–201 et seq.;

(2) The Arkansas State Highway Employees' Retirement System, established by § 24–5–103;

(3) The Arkansas Public Employees' Retirement System, established by § 24–4–103;

(4) The State Police Retirement System, established by § 24–6–203;

(5) The Arkansas Judicial Retirement System, established by § 24–8–201 et seq.;

(6) An alternate retirement plan for:

(A) A college, university, or the Department of Higher Education provided for under § 24–7–801 et seq.; and

(B) A vocational-technical school or the Department of Career Education provided for under § 24–7–901 et seq.;

(7) The Arkansas Local Police and Fire Retirement System provided for under § 24–10–101 et seq.; and

(8) A firemen's relief and pension fund or a policemen's pension and relief fund provided for under § 24–11–101 et seq.

(b) If this act results in an employee who is a current member of a retirement system prior to the effective date of this act being transferred to or affiliated with a cabinet-level department that is covered by a different retirement system than his or her previous state entity, the employee may, within one hundred eighty (180) days of the effective date of this act by written election and notice to the new employer and affected retirement system, make a one-time choice to:

(1) Remain in his or her same retirement system prior to the effective date of this act, under the same conditions then provided by law or as may later be provided by law; or

(2) Become a member of the retirement system of the cabinet-level department to which the employee is transferred to or affiliated with under this act, under the same conditions for a reciprocal member to be transferred as an active member to a reciprocal system as currently provided by law under the system to which the reciprocal member is transferred.

(c) If this act results in an employee being transferred to or affiliated with a cabinet-level department that is covered by a different health insurance plan than his or her previous state entity, the employee may, within one hundred eighty (180) days of the effective date of this act, make a one-time choice between:

(1) Continuing to participate in his or her health insurance plan prior to the effective date of this act, under the same conditions then provided by law or as may later be provided by law; or

(2) Participating in the health insurance plan of the cabinet-level department to which the employee is transferred to or affiliated with under this act, under the same conditions then provided by law or as may later be provided by law.

(d)(1)(A) A retirement system may issue policies establishing the procedure for an employee to exercise benefit options under subsection (b) of this section.

(B) The State and Public School Life and Health Insurance Board may issue policies establishing the procedure for an employee to exercise benefit options under subsection (c) of this section.

(2) A policy under subdivision (d)(1) of this section is not a rule under the Arkansas Administrative Procedure Act, § 25–15–201 et seq.

SECTION 6342. DO NOT CODIFY. **Boards and commissions — Terms.**

(a) Except as provided in this act, including without limitation this section, the members of a board, commission, committee, task force, or similar state entity subject to a cabinet-level department transfer under this act shall:

- (1) Continue to be selected in the same manner as provided by Arkansas law; and
- (2) Serve for the terms provided for under Arkansas law.

(b) To the extent that membership or service on a board, commission, committee, task force, or similar state entity relates to the holding of an office or title, the membership of the board, commission, committee, task force, or similar state entity at issue shall be revised to include the appropriate official under this act if:

- (1) The name of the office or title is revised under this act; or
- (2) The holder of the office or title changes by the operation of this act.

(c)(1)(A) Beginning July 1, 2019, the members of the council shall serve three-year terms.

(B) The terms of the members serving on the Health Information Exchange Council prior to August 1, 2019, shall expire on July 1, 2019, and the Secretary of the Department of Health shall make appointments to begin on July 1, 2019.

(2)(A) The appointed members of the council beginning their appointments on July 1, 2019, shall draw lots for the staggering of terms so that:

- (i) Five (5) members serve terms of one (1) year;
- (ii) Six (6) members serve terms of two (2) years; and
- (iii) Six (6) members serve terms of three (3) years.

(B) Subsequent appointees to the council shall serve terms of three (3) years.

(3) A member may be re-appointed to serve on the council.

(4) In the event of a vacancy on the council, a person may be appointed to serve the remainder of the term.

SECTION 6343. DO NOT CODIFY. **CONSTRUCTION.**

(a) Except as provided in subsection (b) of this section, to the extent that a conflict exists between an act of the regular session of the Ninety–Second General Assembly and this act:

- (1) Section 1–2–107 shall not apply; and
- (2) All of the enactments of each act shall be given effect except to the extent of irreconcilable conflicts, in which case the conflicting provision of this act shall prevail.

(b) This section shall not revive or re-enact any provision of the Arkansas Code that has been repealed by an act of the regular session of the Ninety–Second General Assembly, including without limitation this act.

SECTION 6344. DO NOT CODIFY. Funding and classification of cabinet-level department secretaries.

(a) The secretary positions established by § 25-43-108(d)(1) shall be *funded from*:

(1) *Existing resources; or*

(2)(A) *If the Chief Fiscal Officer of the State determines it is necessary, the State Central Services Fund for the secretary of the:*

(i) *Department of Finance and Administration;*

(ii) *Department of Transformation and Shared Services; and*

(iii) *Department of Inspector General*

(B) *Beginning in the 2020 — 2021 fiscal year, the General Assembly shall determine and appropriate funding for the Secretary of the Department of Transformation and Shared Services and the Secretary of the Department of Inspector General.*

(b) The Office of Personnel Management, as directed by the Governor, shall establish and submit the appropriate class code, grade, or line item maximum for each cabinet-level department secretary to the Legislative Council, or to the Joint Budget Committee if during a legislative session, for its review before July 1, 2019.

SECTION 6345. DO NOT CODIFY. Transformation and Efficiencies Act transition team.

(a) The Governor may select up to twenty-five (25) state employees to form a transition team to assist in the implementation of the Transformation and Efficiencies Act of 2019.

(b) Upon selection by the Governor, each transition team member:

(1) May be temporarily reassigned job duties to assist the transition team;

(2) Shall continue to be paid from the employee's existing position and by the state entity employing the transition team member; and

(3) Is authorized to report to work at an alternate location to perform the duties of the transition team.

(c) Service on the transition team shall not affect the employee's time of service or any benefits the employee may receive, including without limitation health insurance benefits or retirement benefits.

(d) The Governor, or his designee, shall prescribe the duties of each transition team member.

(e)(1) The Transformation and Efficiencies Act transition team shall expire on July 31, 2019.

(2) The Governor may return members of the transition team to *their existing positions before July 31, 2019.*

(f)(1) *The Governor or the Governor's designee shall submit and present a report to the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental committee by July 31, 2019.*

(2) *The report shall include a proposed timeline for the implementation of the Transformation and Efficiency Act of 2019 and a summary of any other work undertaken by the transition team.*

SECTION 6346. EMERGENCY CLAUSE.

(a) It is found and determined by the General Assembly of the State of Arkansas that the Transformation and Efficiencies Act of 2019 revises the duties of state entities, creates new departments of the state, and creates new positions in the state; that these revisions are extensive and will require new policies and procedures to be developed to implement the transition; that a team of existing state employees will be needed to assist in the implementation of the Transformation and Efficiencies Act of 2019; that this transition shall occur on July 1, 2019, and policies and procedures will be required to be developed before that date; that a new class code, grade, and line item maximum for each cabinet-level department secretary must be submitted prior to July 1, 2019 for legislative approval before the *implementation of this act*; and that the two uncodified sections of this act preceding the emergency clause titled “Funding and classification of cabinet-level department secretaries” and “Transformation and Efficiencies Act transition team” are immediately necessary because the transition to the new government structure will require the dedicated efforts of state employees currently performing other duties prior to the effective date of the remaining sections of the act on July 1, 2019. Therefore, an emergency is declared to exist, and the two uncodified sections of this act preceding the emergency clause titled “Funding and classification of cabinet-level department secretaries” and “Transformation and Efficiencies Act transition team” being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

(b) It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions *impact the expenses and operations of state government*; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled “Funding and classification of cabinet-level department secretaries” and “Transformation and Efficiencies Act transition team” should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.

IslA. Davis

APPROVED: 4/11/2019

Footnotes

- 1 So in enrolled act. “A” probably should have been included in stricken language.
- 2 So in enrolled act. Probably should read “of Correction’s”.
- 3 So in enrolled act. Probably should read “(b).”.

- 4 So in enrolled act. This word probably should be preceded by the first part of (a)(1), which reads: “(1) ‘Classroom teacher’ means an individual who is required to”. See act section 1400 below.
- 5 So in enrolled act. Probably should not have included: “(1) ‘Classroom teacher’ means an individual who is required to”. This phrase probably should have been included in act section 1396 as part of the amendment of § 6–17–412(a)(1).
- 6 So in enrolled act. Probably should have been included in stricken language.
- 7 So in enrolled act. This fragment and the following subparagraph (ii) probably should follow the first two paragraphs in act section 1691.
- 8 So in enrolled act. The text of the amendment of subsections (4)(A) to (4)(C) follow the first two paragraphs of section 1691.
- 9 So in enrolled act. It appears that the rest of the language of this amendment follows the amendment of § 6–20–2305(b)(4)(C)(x)–(xii) in act section 1684.
- 10 Section numbering so in enrolled act. A different Section 1839 follows Section 1838.
- 11 Section numbering so in enrolled act. A different Section 1839 follows Section 1832.
- 12 So in enrolled act. Text of (e)(3) not set out in act.
- 13 So in enrolled act. Probably should read “§ 20–7–135(f)(1)”.
- 14 So in enrolled act. Closing parenthesis probably should have been included in stricken language.
- 15 Paragraph designation so in enrolled act. Probably should read “(b)(1)”.
- 16 So in enrolled act. Open parenthesis probably should be underlined.
- 17 So in enrolled act. Probably should read “secretary’s”.
- 18 Paragraph designation of this and next paragraph so in enrolled act. Probably should be “(c)” and “(d)”, respectively.
- 19 So in enrolled act. Probably should read “(4) and (5)”.
- 20 So in enrolled act. Strikethrough probably should extend through final ‘t.’”